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DENVER, COLO.
Date MAR 26 1935

98040

Circular No. 1351

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1595629 "F" PMR March 21, 1935

Homestead applications for reclamation lands.

Registers,

United States Land Offices.

Sirs:

March 4, 1935, the Commissioner of the Bureau of Reclamation called the attention of this office to the fact that one of the Registers of the local land offices had recently rejected an application to make a reclamation homestead entry for a farm unit established for land within a Federal project, because of the Executive order issued November 26, 1934.

Section 3 of the Reclamation Act of June 17, 1902 (32 Stat. 388), provides for the withdrawal of vacant, unreserved and unappropriated public lands for the purpose of making surveys and irrigation investigations to determine the feasibility of irrigation and reclamation of such withdrawn lands. A portion of reclamation withdrawn lands may be utilized by the Bureau of Reclamation for the construction and maintenance of irrigation works and a portion may be platted to farm units and receive water for irrigation from such irrigation works. Lands so reserved are not subject to entry until the feasibility of irrigation is determined and the lands have been classified as productive agricultural land and a farm unit is established therefor and public notice issues announcing the availability of water for irrigation purposes pursuant to the reclamation law. Thereafter the lands may be entered under the homestead laws only by persons who, pursuant to subsection "C" of the act of December 5, 1924 (43 Stat. 701), have satisfied an examining board appointed for the project that they are possessed of such qualifications as to industry, experience, character, good health, vigor and capital as are considered necessary to give reasonable assurance of success on the project, and are otherwise qualified to make homestead entry.

By Executive order of November 26, 1934, under authority of the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), and subject to the conditions expressed in said acts, and to existing valid rights, it was ordered that all of the vacant, unreserved and unappropriated public land in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah and Wyoming be, and the same thereby was, temporarily withdrawn from settlement, location, sale or entry, and reserved for classification, and pending determination of the most useful purpose to which such land may be put in consideration of the provisions of the act of June 28, 1934 (48 Stat. 1269), and for conservation and development of natural resources, and by Executive Order No. 6964, of February 5, 1935, a similar withdrawal was made under the above mentioned acts as to public land in Alabama, Arkansas, Florida, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, Oklahoma, Washington and Wisconsin, pending determination of the most useful purpose to which said lands may be put in furtherance of certain projects known as "The Land Program, Federal Emergency Relief Administration" and also for the conservation and development of natural resources.

The Department and the courts have held that lands withdrawn pursuant to the reclamation law are not unreserved but are reserved (38 L. D. 349; 167 Fed. 881). It has further been held that the withdrawal of lands under the reclamation law is legislative in its effect and the use of such withdrawn lands in connection with a Federal reclamation project is a public use (41 L. D. 627). By office decision dated December 13, 1934, approved by the Department, it was held that unless and until public lands withdrawn by the Department pursuant to the Reclamation Act of June 17, 1902, supra, are restored or eliminated by the Department from such reclamation withdrawal, the lands are, except as otherwise provided in said Executive order of November 26, 1934, excepted therefrom.

You are therefore instructed that lands withdrawn in connection with Federal Irrigation projects pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388), are reserved lands and as such are not while thus reserved affected by said Executive orders of November 26, 1934, and February 5, 1935. Applications filed to make entry for lands otherwise subject to entry under the Reclamation Homestead Law may be allowed upon a proper showing and in the absence of any objection of record, notwithstanding the Executive orders of November 26, 1934, and February 5, 1935.

You will recall and vacate any decision you may have rendered rejecting an application to make reclamation homestead entry, based upon the sole ground of said Executive orders of November 26, 1934, and February 5, 1935, and be governed by these instructions with respect to similar applications hereafter filed.

Very respectfully,

(Sgd.) Fred W. Johnson,
Commissioner.

Approved:

(Sgd.) T. A. Walters,

First Assistant Secretary.

See Circ. 1353 revised
&
See 1353 b.

101235

Circular No. 1353. UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

RECEIVED
U. S. LAND OFFICE,
BILLINGS, MONTANA
Date MAY 31 1935
Hour

"C" AJM

REGULATIONS GOVERNING THE FILING OF APPLICATIONS FOR HOMESTEAD ENTRY UNDER SECTION 7 OF THE ACT OF JUNE 28, 1934 (48 STAT. 1269), TAYLOR GRAZING ACT.

19905

Registers,

U. S. Land Offices.

Sirs:

Section 7 of the act of June 28, 1934 (48 Stat. 1269), provides:

> "That the Secretary is hereby authorized, in his discretion, to examine and classify any lands within such grazing districts which are more valuable and suitable for the production of agricultural crops than native grasses and forage plants, and to open such lands to homestead entry in tracts not exceeding three hundred and twenty acres in area. Such lands shall not be subject to settlement or occupation as homesteads until after same have been classified and opened to entry after notice to the permittee by the Secretary of the Interior, and the lands shall remain a part of the grazing district until patents are issued therefor, the homesteader to be, after his entry is allowed, entitled to the possession and use thereof: _Provided_, That upon the application of any person qualified to make homestead entry under the public-land laws, filed in the land office of the proper district, the Secretary of the Interior shall cause any tract not exceeding three hundred and twenty acres in any grazing district to be classified, and such application shall entitle the applicant to a preference right to enter such lands when opened to entry as herein provided."

Any of the public lands within grazing districts which are more valuable and suitable for the production of agricultural crops than native grasses and forage plants may be classified and opened to homestead entry by the Secretary of the Interior after due notice to any permittee or permittees entitled to participate in the grazing use of the land.

Cir 1353

Any person qualified to make an original or additional entry under either the general or enlarged homestead laws may file in the district land office his application to make homestead entry for contiguous subdivisions of land which he is qualified to enter, together with the necessary filing fee and commissions, and the affidavits required by Circulars 1066 and 1261. The entire amount paid will be carried in the "unearned money" account and will be repaid by the register of the district land office if the application be not allowed. A qualified person may apply to enter as much as 160 acres under Sec. 2289 of the Revised Statutes or the general homestead law, or 320 acres under the enlarged homestead laws. All homestead applications hereunder must be accompanied by the applicant's petition in the form of an affidavit executed in duplicate and corroborated by at least two witnesses who are familiar with the character of the land. No blank forms of such affidavits or petitions are issued by this office, but for convenience in filing it is desired that they be prepared on sheets not over 8½ x 11 inches in size. The petition should set forth in detail the character of each subdivision included in the application to make entry under this act and, if application is for an additional entry under the enlarged homestead act, also of each subdivision in the original homestead entry. Petitions which are defective will be returned to the applicant for correction, or he may be required to furnish supplemental evidence concerning matters not discussed or which have not been described in sufficient detail. The petition should make full disclosures as to any water holes, springs or water supply developed or improved by the holder of any grazing permit or his predecessor in interest.

If the applicant seeks to make entry of nonirrigable land under the enlarged homestead law and all or part of the land has not been designated under that law, the petition must set forth fully the conditions governing the irrigability of the land. If any part or parts thereof are irrigated, their location, area, source of water supply, and other pertinent facts should be stated. If any part or parts thereof are under constructed or proposed irrigation ditches or canals, or adjacent thereto, the relation of the same and the reasons for applicant's belief that the lands are not irrigable therefrom should be explained. The relation of the tract to surface streams or springs rising on or flowing across them or in their vicinity should be indicated. If such sources of water supply are inadequate for the irrigation of the applicant's lands, or are not available to him, full particulars should be given. The location and depth of wells, elevation of water plane relative to the surface, and other pertinent facts which will disclose the quantity and quality of the water supply, obtainable from either ordinary or artesian wells on the land, should be given. If there are no wells thereon such information should be furnished as to any other wells in that vicinity, and the possibility of irrigating the tract involved from underground sources should be fully discussed. If any attempts have been made to irrigate and reclaim the tract, or if it has been included in a desert-land entry, the reasons for lack of success should be stated. Care should be exercised in the preparation of the petition as inaccuracies and omissions will tend to retard action and may lead to rejection of the application.

In all cases of applications to make homestead entries of lands inside the grazing district, accompanied by the petition in duplicate for classification and opening of the land to homestead entry, such applications should be received, assigned a serial number, and noted upon your records, and one copy of the petition for classification and opening will be sent promptly to the Director, Division of Grazing, and the original papers will be sent to the General Land Office with your report of action taken. The Director, Division of Grazing, will cause proper notice to be given of the filing of such applications and petitions for classification to the grazing permittee or permittees or the proper officer of groups, associations, and corporations exercising privileges in the district. The Director of Grazing will make his reports and recommendations to the Commissioner of the General Land Office. If he recommends favorable action thereon, the Director of Grazing shall fix a date before which the land shall not be opened and subject to entry.

Where the Director of Grazing advises this office that he is unable to recommend classification of the land or some part thereof as subject to designation and opening to entry under the homestead laws, this office will, through the proper district land office, furnish the applicant with notice of the report and allow him 30 days from receipt thereof within which to file response. At the applicant's option he may either appeal from the finding to the Secretary of the Interior, alleging errors of law, or he may present further showing as to the facts by affidavit, accompanied by such evidence as is desired tending to disprove the adverse conclusion reached. Such appeal or response to adverse action of the Director of Grazing will be forwarded by you to this office. If the evidence submitted warrants it, favorable action may be recommended, or if the conclusion be still adverse it will be transmitted to the Secretary of the Interior with report. The case will thereafter be considered as having the status of an appeal pending before the Secretary's office. In cases where the applicant fails to furnish a showing or to appeal from the order of this office requiring him to furnish it within the 30 days allowed, or where the Secretary refuses to classify and open the land, final action will be taken, and the case closed by this office. You will allow no such application until instructed to do so by this office.

The filing of an application for classification and opening of the land, accompanied by application to make homestead entry, does not give the applicant the right to occupy or settle upon the land applied for. If the lands are found to be more valuable for the growing of agricultural crops and are opened to homestead entry and the application to make entry has been allowed, the homestead entryman will have the right to take possession and use the land for the purpose of complying with the requirements of the homestead law, but the lands remain a part of the grazing district until the homestead claimant has fully met the requirements of the law and patent has issued to him.

Lands classified as subject to homestead entry under Section 7 of the Act of June 28, 1934, shall be open to entry: FIRST, by the qualified homestead applicant on whose application the lands were classified; SECOND, by qualified ex-service men of the war with Germany entitled to exercise preference rights conferred by Public Resolution No. 85, approved June 12, 1930 (46 Stat. 580); and, THIRD, by the general public. If entry by a person on whose application the lands were classified is allowed, other applications should be promptly rejected. Of the applicants for classification, only the one upon whose request the tract was classified secures the preference right. Other applicants for classification of the same tract acquire no right by virtue of their applications. While the preference right period of ex-service men of the war with Germany begins 90 days prior to the date of the opening of the lands to homestead entry, filings may be presented during the 20 days preceding such preference right period; that is, from the 110th day to the 90th day prior to the date of the opening, and such filings will be treated as simultaneously filed at 9 A.M. on the 90th day prior to the date of opening, in the manner provided by Circular No. 324, approved May 22, 1914 (43 L.D. 254). The filings of the successful ex-service applicant may therefore be allowed only in event the preference right application is not allowable on or after the date of the opening. Applications may be filed by the general public within 20 days prior to the date of opening, and treated as simultaneously filed at 9 A.M. on the date of the opening.

Later applications should be received and suspended pending action on the prior application. If withdrawal of an application under Sec. 7 of the act of June 28, 1934, be filed, you will promptly notify this office thereof, inviting special attention to the pendency of the petition for classification and opening and you will close the case on your records. Prior to final action on his application, the applicant's homestead right will be in abeyance, and he will not be entitled to exercise same elsewhere, nor will he be permitted to have two applications under this section of the act pending at the same time.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

I concur:

(Sgd) John F. Deeds,

Acting Director of Grazing.

Approved: May 16, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

1353

125860

Circular No. 1353 Revised. — See Circ. 1353(a)

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

October 26, 1936.

REGULATIONS UNDER SECTION 7 OF THE ACT OF JUNE 28, 1934 (48 STAT. 1269), TAYLOR GRAZING ACT, AS AMENDED BY ACT OF JUNE 26, 1936 (PUB. NO. 827 - 74TH CONGRESS), GOVERNING THE FILING OF APPLICATIONS FOR ENTRY, SELECTION, OR LOCATION.

Registers,

U. S. Land Offices.

Sirs:

Section 7 of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (Pub. No. 827), provides:

> "That the Secretary of the Interior is hereby authorized, in his discretion, to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (No. 6910), and amendments thereto, and Executive order of February 5, 1935 (No. 6964), or within a grazing district, which are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under this act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or scrip rights or land grant, and to open such lands to entry, selection, or location for disposal in accordance with such classification under applicable public-land laws, except that homestead entries shall not be allowed for tracts exceeding 320 acres in area. Such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry: Provided, That locations and entries under the mining laws, including the act of February 25, 1920, as amended, may be made upon such withdrawn and reserved areas without regard to classification and without restrictions or limitation by any provision of this act. Where such lands are located within grazing districts reasonable notice shall be given by the Secretary of the Interior to any

Cir 1353 rev.

grazing permittee of such lands. The applicant, after his entry, selection, or location is allowed, shall be entitled to the possession and use of such lands: Provided, That upon the application of any applicant qualified to make entry, selection, or location, under the public-land laws, filed in the land office of the proper district, the Secretary of the Interior shall cause any tract to be classified, and such application, if allowed by the Secretary of the Interior, shall entitle the applicant to a preference right to enter, select, or locate such lands if opened to entry as herein provided."

The purpose of this act of June 26, 1936, in amending Section 7 of said act of June 28, 1934, is to authorize and empower the Secretary of the Interior to classify and open to entry, selection or location under any of the public land laws, upon application or otherwise, any of the public lands withdrawn or reserved by Executive Orders of November 26, 1934, and February 5, 1935, as amended, also lands within grazing districts, and, as to such lands, after reasonable notice has been given to any permittee or permittees entitled to participate in the grazing use of the land. Lands embraced in a grazing lease shall be subject to classification and disposal thereunder, provided that before the allowance of any entry, selection or location under said section 7 evidence must be furnished that the applicant has agreed to compensate the lessee for any grazing improvements placed on the lands entered, selected or located, under the authority of the lease and for any injury caused to the lessee's grazing operations by reason of the loss of the leased lands from his lease-hold. In event the interested parties are unable to reach an agreement as to the amount of such compensation the amount shall be fixed by the Commissioner of the General Land Office subject to the right of appeal to the Secretary of the Interior, whose decision shall be final. All such agreements, to be effective, must be approved by the Commissioner of the General Land Office. It must be determined that the application is an allowable one before payment by the applicant is required, and no application will be allowed in the absence of satisfactory evidence that payment has been made. The failure of the applicant to pay the lessee in accordance with the agreement shall be just cause for rejection of the application for entry, selection or location. The authority granted by this act may be exercised by the Secretary of the Interior on his own initiation at any time.

Any person, State or company qualified to make entry, selection or location under any of the public land laws may file in the district land office an application, in duplicate, to make entry, selection or location for land located either within or without a grazing district, which is otherwise subject to disposition under the law under which the application is made, accompanied with the necessary filing fee and commissions, and the affidavits required by Circulars 1066 and 1231 and the law under which the application is filed. The entire amount paid will be carried in the "unearned money" account and will be repaid by Treasury check, if the application be not allowed. The act precludes the entry under the homestead laws of a greater area than 320 acres.

The original papers must be filed in accordance with the laws and regulations governing the rights of the claimant for entry, selection, or location and an extra copy thereof for transmittal to the Director, Division of Grazing. The petition for classification and opening to entry, selection or location, must set forth all material matter whereby it may be determined whether the lands sought are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or scrip rights or land grant, and proper for acquisition under the law as applied for. All applications for entry, selection or location must be accompanied by the applicant's petition for classification and opening to entry of the lands applied for in the form of an affidavit executed in duplicate and corroborated by at least two witnesses who are familiar with the character of the land. The originals of the application and petition only need be sworn to, No blank forms of such affidavits or petitions are issued by this office, but for convenience in filing it is desired that they be prepared on sheets not over 8½ x 11 inches in size. The petition should set forth in detail the character of each subdivision included in the application to make entry. Petitions which are defective will be returned to the applicant for correction, or he may be required to furnish supplemental evidence concerning matters not discussed or which have not been described in sufficient detail. The petition should make full disclosures as to any water holes, springs or water supply developed or improved by the holder of any grazing permit or his predecessor in interest. If any part or parts thereof are irrigated, their location, area, source of water supply, and other pertinent facts should be stated. If any part or parts thereof are under constructed or proposed irrigation ditches or canals, the relation of the same and whether the land is irrigable therefrom should be explained. The relation of the tract to surface streams or springs rising on or flowing across them or in their vicinity should be indicated. If such sources of water supply are inadequate for the irrigation of the lands applied for, full particulars should be given. The location and depth of wells, elevation of water plane relative to the surface, and other pertinent facts which will disclose the quantity and quality of the water supply, obtainable from either ordinary or artesian wells on the land, should be given. If there are no wells thereon such information should be furnished as to any other wells in that vicinity, and the possibility of irrigating the tract involved from underground sources should be fully discussed. If any attempts have been made to irrigate and reclaim the tract, or if it has been included in a former desert-land entry, the reasons for lack of success should be stated. Care should be exercised in the preparation of the petition as inaccuracies and omissions will tend to retard action and may lead to rejection of the application.

In all cases of applications to make entries, selections, or locations of public lands accompanied by the petition for classification and opening of the land to entry, selection, or location, and necessary fees and commissions, such applications should be received, assigned a serial number,

1353

and noted upon your records, and if your records show no objections you will transmit one copy of the application for entry and petition for classification and opening to the Director, Division of Grazing, and the original papers will be sent to the General Land Office with your report of action taken. The Director, Division of Grazing, will cause proper notice to be given of the filing of such applications, selections, or locations, and petitions for classification and opening to the grazing permittee or permittees or the proper officer of groups, associations, and corporations exercising privileges in the district or on any of the lands involved and thereafter will make his reports and recommendations to the Commissioner of the General Land Office as to the character and classification of the lands involved; that is, whether they may be disposed of under the public land laws without detriment to the beneficial use of the land by local interests, or the protection, orderly use and regulation of the public ranges, or the creation and maintenance of grazing districts or the conservation and development of natural resources. Where the Director, Division of Grazing, in his reports so indicates, and where the laws and regulations under which the application was filed so require, the Director, Division of Investigations, will be requested to cause the necessary field examination to be made and report thereof submitted to the Commissioner of the General Land Office. If the Secretary of the Interior approves the classification of the land as subject to disposal under the public land laws, the General Land Office will pass upon the qualifications of the applicant and determine whether he may be allowed to acquire title to the land under the application. If it should be determined that the land may not be disposed of under the law specified by the applicant, the application for entry, selection or location will be rejected and the applicant allowed 30 days from receipt of notice within which to file response to the notice of the report furnished him. At the applicant's option he may either appeal from the finding to the Secretary of the Interior, alleging errors of law, or he may present further showing as to the facts by affidavit, accompanied by such evidence as is desired tending to disprove the adverse conclusion reached. Such appeal or further showing will be forwarded by you to this office. If the evidence submitted warrants it, favorable action may be taken, but if the conclusion be still adverse, it will be transmitted to the Secretary of the Interior with report. In cases where the applicant fails to furnish a showing or to appeal from the order of this office requiring him to furnish it within the 30 days allowed, or where the Secretary refuses to open the land to disposition, final action will be taken, and the case closed by this office. You will allow no such application until instructed to do so by this office.

The filing of an application for classification and opening of the land, accompanied by application to make entry, selection or location, does not give the applicant the right to occupy or settle upon the land applied for, but will segregate the lands applied for from other disposition under the public land laws, subject to prior valid adverse claim, except that at all times the mineral contents in the land shall be subject to prospecting, locating, developing, mining, entering, leasing or patenting under the provisions of the applicable laws. The applicant shall be entitled to the possession and use of the land only after his entry, selection or location has been allowed.

Lands classifi[illegible]s subject to homestead or des[illegible] land entry, under Section 7 of the act of June 28, 1934, as amended, shall be opened to entry: FIRST, by the qualified applicant on whose application the lands were classified; and, SECOND, by qualified ex-service men of the war with Germany entitled to exercise preference rights conferred by Public Resolution No. 85, approved June 12, 1930 (46 Stat. 580), under the homestead or desert land laws; and, THIRD, by the general public. If entry, selection or location by the person, State or company upon whose application the lands were classified is allowed, other applications should be promptly rejected. Of the applicants for classification, only the one upon whose request the tract is classified secures the preference right. While the preference right period of ex-service men of the war with Germany begins 90 days prior to the date of the opening of the lands to homestead or desert land entry, filings may be presented during the 20 days preceding such preference right period; that is, from the 110th to the 90th day prior to the date of the opening, and such filings will be treated as simultaneously filed at 9 A.M. on the 90th day prior to the date of opening, in the manner provided by Circular No. 324, approved May 22, 1914 (43 L.D. 254). The filings of the successful ex-service applicant may, therefore, be allowed only in event the preference right application of the party responsible for the classification is not allowable on or after the date of the opening. Applications may be filed by the general public within 20 days prior to the date of opening, and treated as simultaneously filed at 9 A.M. on the date of the opening. Later applications should be received and suspended pending action on the prior application. If withdrawal of an application under Section 7 of the act of June 28, 1934, be filed, you will promptly notify this office thereof, inviting special attention to the pendency of the petition for classification and opening and you will close the case on your records.

Upon allowance of an application to make entry, location or selection under this act, all the laws and regulations governing the particular kind of entry, location or selection applied for must be complied with in order to earn title to the lands sought.

In all proper cases of applications to make nonmineral entries or selections of public lands, the instructions in Circulars Nos. 1021 (51 L.D. 167), 1031 (51 L.D. 202), and 1136 (52 L.D. 241), must be observed.

These instructions constitute a revision of those of May 16, 1935 (55 I.D. 257).

Very respectfully,

I concur:

(Sgd) Julian Terrett,

Acting Director, Division of Grazing.

(Sgd) Fred W. Johnson,
Commissioner.

I concur:

(Sgd) B. B. Smith,

Acting Director, Division of Investigations.

Approved: October 26, 1936.

(Sgd) T. A. Walters,

First Assistant Secretary.

RB

Circular No. 1353b.

REGULATIONS GOVERNING THE CLASSIFICATION AND ENTRY OF LANDS AFFECTED BY GENERAL ORDERS OF WITHDRAWAL, OR WITHIN A GRAZING DISTRICT.

Part 296
CFR 43

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Superseded
See Circ 1718

See also 1523
~~attached~~

June 29, 1937.

Registers,

District Land Offices.

Sirs:

Section 7 of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), provides:

> "That the Secretary of the Interior is hereby authorized, in his discretion, to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (No. 6910), and amendments thereto, and Executive order of February 5, 1935 (No. 6964), or within a grazing district, which are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under this act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or scrip rights or land grant, and to open such lands to entry, selection, or location for disposal in accordance with such classification under applicable public-land laws, except that homestead entries shall not be allowed for tracts exceeding 320 acres in area. Such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry: Provided, That locations and entries under the mining laws, including the act of February 25, 1920, as amended, may be made upon such withdrawn and reserved areas without regard to classification and without restrictions or limitation by any provision of this act. Where such lands are located within grazing districts reasonable notice shall be given by the Secretary of the Interior to any grazing permittee of such lands. The applicant, after his entry, selection, or location is allowed, shall be entitled to the

possession and use of such lands: Provided, That upon the application of any applicant qualified to make entry, selection, or location, under the public-land laws, filed in the land office of the proper district, the Secretary of the Interior shall cause any tract to be classified, and such application, if allowed by the Secretary of the Interior, shall entitle the applicant to a preference right to enter, select, or locate such lands if opened to entry as herein provided."

1. LANDS SUBJECT TO CLASSIFICATION AND OPENING. The purpose of the act of June 26, 1936, in amending Section 7 of said act of June 28, 1934, is to authorize and empower the Secretary of the Interior to classify and open to entry, selection or location under any of the public land laws, upon application or otherwise, any of the public lands withdrawn or reserved by Executive Orders of November 26, 1934, and February 5, 1935, as amended, also lands within grazing districts, and, as to such lands, after reasonable notice has been given to any permittee or permittees entitled to participate in the grazing use of the land. Lands embraced in a grazing lease shall be subject to classification and disposal thereunder, provided that before the allowance of any entry, selection or location under said section 7 evidence must be furnished that the applicant has agreed to compensate the lessee for any grazing improvements placed on the lands entered, selected or located, under the authority of the lease and for any injury caused to the lessee's grazing operations by reason of the loss of the leased lands from his lease-hold. In event the interested parties are unable to reach an agreement as to the amount of such compensation the amount shall be fixed by the Commissioner of the General Land Office subject to the right of appeal to the Secretary of the Interior, whose decision shall be final. All such agreements, to be effective, must be approved by the Commissioner of the General Land Office. It must be determined that the application is an allowable one before payment by the applicant is required, and no application will be allowed in the absence of satisfactory evidence that payment has been made. The failure of the applicant to pay the lessee in accordance with the agreement shall be just cause for rejection of the application for entry, selection or location. The authority granted by this act may be exercised by the Secretary of the Interior on his own initiation at any time.

2. EXECUTION AND FILING OF APPLICATIONS TO ENTER. Any person, State or company qualified to make entry, selection or location under any of the public land laws may file in the district land office an application, in duplicate, to make entry, selection or location for land located either within or without a grazing district, which is otherwise subject to disposition under the law under which the application is made, accompanied with the necessary filing fee and commissions, and the affidavits required by Circulars 1066 and 1231 and the law under which the application is filed. The entire amount paid will be carried in the "unearned money" account and will be repaid by Treasury check, if the application be not allowed. The original of the application only need be sworn to. The act precludes the entry under the homestead laws of a greater area than 320 acres.

101974

RECEIVED
U.S. LAND OFFICE
DENVER, COLO.
Date JUN 8 1935
Hour

Circular No. 1355

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1375265 "N" MJD

June 4, 1935.

Oil shale withdrawal.
Circular 1220 modified.
(Executive Order No. 7038).

Registers,

United States Land Offices.

Sirs:

By Executive Order (No. 7038) of May 13, 1935, Executive Order (No. 5327) of April 15, 1930, withdrawing certain lands for purposes of investigation, examination, and classification, was modified to the extent of authorizing the Secretary of the Interior to issue sodium permits and leases under the general leasing act of February 25, 1920 (41 Stat. 437), as amended by the act of December 11, 1928 (45 Stat. 1019) for and of any of the lands withdrawn by said order.

Circular No. 1220 of June 9, 1930 (53 L. D. 127), is accordingly modified to conform to the later Executive Order and you are authorized to accept applications for sodium prospecting permits and leases for lands withdrawn under Executive Order No. 5327.

You will make appropriate notations on your records concerning the modification.

Very respectfully,

(Sgd) Fred W. Johnson
Commissioner.

Approved: June 4, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

102191

RECEIVED
U.S. LAND OFFICE
BILLINGS, MONTANA
Date JUN 14 1935

Circular No. 1356

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 7, 1935.

Duties of district land
offices in connection with
administration of Taylor
Grazing Act.

See Circ 1382, 140

19934

Registers,

U. S. Land Offices.

Sirs:

At the request of the Director of Grazing, concurred in by the Commissioner of the General Land Office, performance by the General Land Office of the following functions in connection with the administration of the Taylor Grazing Law was approved by the Secretary March 11, 1935:

(1) Act as office for filing and record for all applications under the Taylor law, such as permits, leases, sales, exchanges or other filings.
(2) List all applications in accordance with regular serial system of the General Land Office and appropriately record same.
(3) Maintain a complete and independent file of grazing permit applications available for reference by the Division of Grazing in each land office, separated by districts.
(4) Detail to the Division of Grazing in Washington, temporarily, as needed, clerical assistance competent to prepare orders creating grazing districts.
(5) Act as the office for collection of all fees and as the fiscal and accounting agency for examination of accounts for disbursement of funds appropriated by the Congress for grazing administration.
(6) Make available in each local land office, office facilities and temporary clerical assistance which may be needed for activities of the Division of Grazing and otherwise cooperate with the Division of Grazing, provided such detail or cooperation will not seriously impair the regular functional activities of such local land office.

Cir 1356

(7) Promulgate all regulations issued under the terms of the Taylor Grazing Law.

(8) Proceed with the preparation for public distribution of base maps on a suitable scale for each grazing district that may be established, and also prepare overprints for such maps showing in different colors the public lands within each district, all outstanding reservations, and all filings of record.

(9) Compile a tabulation of all applications for grazing permits by grazing districts, on a form to be provided, and take such action as may be appropriate to obtain completed applications.

Pursuant thereto the following instructions are issued for the guidance of district land offices (reference to matters requiring the attention of the General Land Office at Washington, D. C., is omitted herefrom):

(a) You will receive for filing and recording in the district land offices and such other disposal as may be directed from time to time, all applications under the Taylor Grazing Law for permits, leases, sales and exchanges, and all supplemental or related papers required of and filed by such applicants or issued by the Director of Grazing or the Commissioner of the General Land Office for delivery to or service upon such applicants.

Immediately upon receipt of an application for grazing permit within a grazing district you will prepare a duplicate thereof and forward same to the Commissioner of the General Land Office for notation upon his records.

(b) All applications should be assigned a serial number in conformity with the present serial number system, beginning with the number following the last serial number which you have assigned. It will not be necessary to maintain a separate and consecutive list of grazing serial numbers.

All applications involving the administration of the grazing act will be entered on the serial register. All applications for leases, sales and exchanges will be noted also on the plats and tract books. (See Circulars Nos. 684, 1350, 1336 and 1346, regulations governing sales, leases and exchanges). Applications for grazing permits will be noted on the serial registers only.

(c) An abstract of the data contained in the application on a form which will be supplied to you must be filled in and attached to the top of each application immediately upon its receipt.

(d) The Division of Grazing has indicated its desire to have all applications for grazing permits within grazing districts assembled for certain states and parts thereof at the U. S. district land offices as follows:

Arizona:	North of the Colorado River-- Salt Lake City Land Office South of the Colorado River-- Phoenix Land Office
California:	Sacramento Land Office
Colorado:	Denver Land Office
Idaho:	Blackfoot Land Office
Montana:	Great Falls Land Office
Nevada:	Carson City Land Office
New Mexico:	Las Cruces Land Office
Oregon:	Lakeview Land Office
Utah:	Salt Lake City Land Office
Wyoming:	Buffalo Land Office (for Grazing District No. 1 only) (Instructions for other Wyoming grazing districts, if established, will be issued).

The registers for U. S. district land offices, other than those above listed, are therefore directed to take action on applications as above indicated, namely, receive, serialize and note all applications for grazing permits within grazing districts, and then immediately forward same by letter of transmittal to the appropriate district land office, as above indicated, for abstracting, etc. In other words, the register at Phoenix will forward grazing applications for lands in Arizona north of the Colorado River to the U. S. land office at Salt Lake City, Utah; the register at Los Angeles will forward applications to Sacramento; the register at Pueblo to the land office at Denver; the register at Coeur d'Alene to the land office at Blackfoot; the register at Billings to the land office at Great Falls; the register at Santa Fe to the land office at Las Cruces; the registers at The Dalles and Roseburg to the land office at Lakeview; the register at Cheyenne will forward applications for grazing district No. 1, only, to the land office at Buffalo.

(e) A large number of applications for grazing permits have already been filed with the Division of Investigations and the Division of Grazing. These divisions, as grazing districts are established, will immediately forward such applications to the registers of the proper United States land offices, who will, in disposing of same, be governed by these instructions as though the applications were filed directly with you by the applicants themselves.

(f) Upon receipt of applications, by the first-above listed land offices, from the applicants, the Division of Investigation, the Division of Grazing, or by transfer from other land offices, the registers will establish a complete and independent file of the same, separate and apart from the other files in their offices, subdivided by grazing districts, and keep them available at all times for examination and action by the Division of Grazing. They are technically the property of the Division of Grazing.

(g) A tabulation of completed applications for grazing permits by grazing districts will be prepared by you upon forms to be provided by the Division of Grazing for that purpose. This work is, however, to be performed only by the U. S. district land offices first above listed.

(h) The responsibility of determining to whom and under what conditions grazing permits or licenses are to issue within grazing districts will rest exclusively with the Division of Grazing, subject to the supervisory control of the Secretary of the Interior. Permits or licenses, when issued (in triplicate) by the Director of Grazing, will be delivered to the register of the district land office in whose district the lands are situated, for notation upon the records of that land office, after which the original will be forwarded by the register to the permittee upon the payment in advance of such grazing charges as may be determined by the Division of Grazing (it being noted in this connection that no charges are to be made for such privileges under licenses for the first year) and the duplicate will be assembled with the application and other pertinent papers and placed by serial number in the grazing files relating to the grazing district involved and the triplicate forwarded by the register to the General Land Office for notation upon its records.

(i) Permits involving exclusive rights to the use of a particular tract of land must be noted against the applicable sections and subdivisions on the plats and tract books unless an entire township is involved, in which event one notation per township will suffice, to be placed at the head of the townships involved, similar to the present method of noting withdrawals, etc.

(j) Permits to graze in common with other permittees over an entire district will not be noted, except on the serial register, but a list of such permittees, by name, post office address and serial number, as permits are delivered, must be kept as the top papers of the grazing file relating to that particular grazing district.

(k) You will be held responsible for the collection of all grazing fees and disposition of all moneys so received, under the general direction and supervision of the Secretary of the Interior and the Commissioner of the General Land Office, to the same extent, and in the same manner, as fiscal matters in connection with other public land matters are now being handled. Further instructions in connection with collections, accounting and disbursement, when necessary, will be issued by the Commissioner of the General Land Office.

(l) As and when requested you will make available for the Division of Grazing office space, desk facilities, equipment and supplies and temporary clerical assistance as needed, and in every way cooperate with the Division of Grazing, provided such assistance, etc., does not seriously interfere with the regular functional activities of your office. In this connection your especial attention is called to paragraph 6 of the grazing division order approved by the Secretary on March 11, 1935, above referred to, to the end that complete and full cooperation will be had between the Division of Grazing and the U. S. district land offices.

(m) In order that the Division of Grazing may have available all pertinent information at the time applications for permits to graze within grazing districts are passed upon by it, the register of each United States district land office is instructed to notify the local representative of the Division of Grazing as to all applications filed in grazing districts for exchanges under section 8 of the Taylor Grazing Act, whether the base or the selected lands are within such districts. Also to notify the Division of Grazing of any applications purporting to be under section 14 or 15 of the Taylor Grazing Act for sales or leases where the lands involved are within grazing districts. This requirement is due to the fact that many of those seeking grazing privileges within grazing districts have erroneously applied for sales or leases, whereas the real purpose of such application was to secure a grazing permit. Furthermore, many applications for the sale or lease of lands under authority of sections 14 and 15, respectively, were filed prior to the inclusion of the lands involved in grazing districts.

In order to expedite the organization of grazing districts, the Secretary of the Interior on May 29, 1935, approved the issuance of temporary revocable licenses during the year 1935, and until such time as land classification studies can be made and the commensurability of properties dependent upon the public range, as well as reasonable grazing fees can be determined. Applications for licenses will be the same as applications for permits (form 1-291) and the procedure in handling the applications will be the same whether licenses or permits are issued.

Pending the issuance of these instructions and the establishment of an orderly procedure thereunder, the Division of Grazing has received, considered and adjudicated a large number of applications for grazing privileges within some of the grazing districts and is issuing temporary revocable licenses thereunder. With a view to avoiding any unnecessary delay in giving immediate effect to these licenses, the Division of Grazing is mailing the originals direct to the applicants but an exact copy of each will be forwarded to the appropriate district land office. Upon receipt thereof you will serialize, record and forward a copy of the same to this office as is herein directed as though the original license was transmitted through your office. A copy for this office will, if necessary, be made in your office. Just as soon as is possible after the promulgation of these regulations the Division of Grazing will proceed with the issuance of licenses in accordance with the procedure herein prescribed.

Very Respectfully

(Sgd.) Fred W. Johnson.
Commissioner.

Reserve Stock.

Office Copy

102302

Circular No. 1357.

PROMULGATING
EXECUTIVE ORDER NO. 7048
OF MAY 20, 1935

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 8, 1935.

Registers,

United States Land Offices
in the States of Arizona,
California, Colorado, Idaho,
Montana, Nevada, New Mexico,
North Dakota, Oregon, South Dakota,
Utah, Wyoming.

Special Agents in Charge,

Division of Investigations.

Sirs:

Executive Order No. 6910, of November 26, 1934, provides in part:

> "it is ordered that all of the vacant, unreserved and unappropriated public land in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah and Wyoming be, and it hereby is, temporarily withdrawn from settlement, location, sale or entry, and reserved for classification, and pending determination of the most useful purpose to which such land may be put in consideration of the provisions of said act of June 28, 1934, and for conservation and development of natural resources."

Doubt having arisen as to whether said Executive order applies to lands reserved or otherwise appropriated at the date of its issuance and subsequently released from such reservation or appropriation, the President, by Executive Order No. 7048, of May 20, 1935, amended said order of November 26, 1934, so as (1) to make it applicable to all lands within the States mentioned therein upon the cancelation or release of prior entries, selections, or claims, or upon the revocation of prior withdrawals unless expressly otherwise provided in the order of revocation; and (2) to authorize the Secretary of the Interior, in his discretion and in harmony with the purposes of the said act of June 28, 1934, to accept title to base lands in exchange for other lands subject to such exchange under the terms of the said act.

Therefore, the Executive order of November 26, 1934, applies to all lands in the States mentioned therein released subsequent to that date from a prior entry, selection, claim, or withdrawal, unless the revocation of the withdrawal expressly provides otherwise.

Executive order of May 20, 1935, also permits the exchange of lands under the provisions of section 8 of said act of June 28, 1934.

Very respectfully,

(Sgd.) Fred W. Johnson,
Commissioner.

Approved: June 8, 1935.

(Sgd.) T. A. Walters,

First Assistant Secretary.

103084

Still in effect 5/17/51 BB.

For amendments – see Circ. 1700 + 1766

Circular No. 1359

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington, D. C.

ALLOTMENTS OF PUBLIC LANDS IN ALASKA TO INDIANS AND ESKIMOS

Register, Anchorage, Alaska,

Registers and Receivers,
Fairbanks and Nome, Alaska.

Sirs:

1. Provision for Allotment. The act of May 17, 1906 (34 Stat. 197), authorizes the Secretary of the Interior to allot not to exceed 160 acres of nonmineral land in Alaska to certain Indians or Eskimos of full or mixed blood, who reside in and are natives of the territory.

2. Execution and Filing of Application. An application for allotment must be made on form 4-021. The application must be sworn to by the applicant and corroborated by the affidavits of two persons having knowledge of the facts, who may be Indians or Eskimos. It may be executed before the proper Register or Receiver, or any officer having a seal and authority to administer oaths. If the applicant is unable to write his name, his thumb print should be attached to the application in preference to his signature by mark, and the thumb print should be witnessed by two persons. The application must be filed in the proper district land office.

3. Description of Land in Application. If surveyed, the land must be described in the application according to legal subdivisions of the public land surveys. If unsurveyed, it must be described as accurately as possible by metes and bounds and natural objects, and its position with reference to rivers, creeks, mountains or mountain peaks, towns or other prominent topographic points or natural objects or monuments, giving the distance and directions with reference to any well-known trail to a town or mining camp, or to a river or mountain appearing on the map of Alaska.

4. Marking on Ground and Notice of Claim. The applicant should plainly indicate on the ground the corners of the land claimed by setting substantial posts or heaping up mounds of stones at each corner.

Notice of the application should be posted on the land, describing the tract applied for in the terms employed in the application, and a copy of such notice should accompany the application.

5. Showing Required in Application. The application, giving the name and address of the applicant, must show that the applicant is an Indian or Eskimo of full or mixed blood, who resides in and is a native of the territory; whether the applicant is married or single; whether the applicant is 21 years of age or over; the facts constituting applicant the head of a family, if applicant is under 21 years of age, or is a married woman; that the applicant has not theretofore made application for allotment under the act of May 17, 1906, if such is the case; and that the land applied for is not reserved by authority of Congress or embraced in any reservation made by Executive order or proclamation of the President. If the land has been occupied by the applicant the application should show when the residence commenced and the extent to which it has been maintained.

6. Nonmineral Affidavit. The applicant must furnish a nonmineral affidavit on the prescribed form, which is printed as a part of form 4-021. This affidavit must be made on personal knowledge and not on information and belief.

7. Allotments in National Forests. Allotments will not be made in national forests unless founded on occupancy of the land prior to the establishment of the particular forest, except as authorized by section 31 of the act of June 25, 1910 (36 Stat. 855, 863), which authorizes an allotment to be made to an Indian who is occupying, living on or has made improvements on the land included within a national forest, and for whose tribe no reservation has been made, provided the Secretary of Agriculture shall certify that the land applied for is more valuable for agricultural or grazing purposes than for the timber thereon. An application under said section 31 should be made on form 5-149, and should contain a reference to the act of May 17, 1906.

8. Shore Space. An Indian allotment may not extend more than 160 rods along the shore of any navigable water, and along such water a space of 80 rods is reserved between claims. The shore space reserve extends 80 rods from the shore line. However, under the act of June 5, 1920 (41 Stat. 1059), the shore space restriction or reservation may be waived, in the discretion of the Secretary of the Interior.

9. Action on Application by Register. The Register will number applications for allotments in accordance with instructions in paragraphs 3 to 7, inclusive, of Circular No. 616 of August 9, 1918 (46 L.D. 513), and note same on the semi-monthly returns. He will

carefully examine each application, and if he finds it complete in all respects and no objection is shown by his records, he will allow it and will advise the applicant of the allowance by special letter, reading substantially as follows:

> Your application under the act of May 17, 1906 (34 Stat. 197), No. __________, for _________________, has been placed of record in this office and forwarded to the General Land Office.
>
> This action segregates the land from the public domain, and no other application can be allowed therefor, or settlement rights attach, during the life of this application.

If the application is incomplete or in conflict with any other application or claim of record, the Register will take such action as the facts may warrant. The application, upon allowance, will operate as a segregation of the land. Any application subsequently presented which conflicts therewith in whole or in part, should be rejected, as to the part in conflict, subject to appeal, unless rights superior to those of the Indian or Eskimo claimant are asserted under the conflicting application, in which case the Register and Receiver will transmit the records in both cases to the General Land Office with appropriate recommendations, with the semi-monthly returns.

10. Preparation of Papers and Fees. The Register and Receiver will assist applicants in the preparation of their papers as far as possible, and as the act of May 17, 1906, does not make any provision for the collection of fees, none will be charged.

11. Officers to be Advised by Register and other Actions Required. The Register will send a copy of the notice of allowance to the Clerk in Charge of the Branch office of the Division of Investigations at Anchorage, to the Director of Education of the Indian Service in Alaska, and to the District Cadastral Engineer of the Public Survey Office in Alaska, and will advise each of them that if any objection to the application is known when the notice of allowance is received, or if any objection to the application is found at any time prior to the completion or rejection thereof, the facts should be reported to the Register. If the said officer receives a report showing objections, he will transmit it to the General Land Office by special letter, with appropriate recommendations.

Where an application subsequent to its allowance is amended, or rejected in whole or in part, the officers mentioned should be advised by the Register of such action.

The District Cadastral Engineer, should note the allowance of the application in the book kept by him for that purpose, and where practicable he will note in pencil the location of the land on the district sheets of his office, the notation to remain until such time as survey may be ordered or until the application has been rejected.

12. Indian Claims and Adjustment to Survey. If in surveying any township it is found that lands therein are occupied or claimed, or have been applied for by Indians or Eskimos, the District Cadastral Engineer will advise the Register as to such claims. If, when the plat of survey is filed, it is found that any Indian or Eskimo occupants or claimants in the township have not filed applications for allotments, the Register will advise such occupants or claimants of their right to file such applications. Where application has been filed, the Register will send notice to the applicant by registered mail, requiring him to adjust his claim to the survey within 90 days from receipt of notice, and will advise him that if the adjustment is not made or an appeal filed within the time allowed, the claim will be adjusted by the Register. If no action is taken by the claimant, the Register will make the adjustment. The claim may not embrace more than 160 acres, and if possible it should be adjusted so as to embrace all subdivisions which have been used and occupied by the Indian or Eskimo, and which contain his improvements. A copy of each notice to an Indian claimant will be sent by the Register to the Director of Education of the Indian Service in Alaska, and where adjustment to survey is required, such copy will be sent by registered mail. In each case the Register will make report to the General Land Office by special letter, showing the action taken.

13. Proof Required before Approval of Application by Secretary of the Interior. An allotment application will not be submitted by the General Land Office to the Secretary of the Interior for approval until the applicant has made satisfactory proof of five years' use and occupancy of the land as an allotment. Such proof must be made in triplicate, in affidavit form, correborated by the affidavits of two persons having knowledge of the facts, and it should be filed in the district land office. It may be sworn to before any officer having a seal and authority to administer oaths. The showing of five years' use and occupancy may be submitted with the application for allotment if the applicant has then used or occupied the land for five years, or at any time after the filing of the application when the required showing can be made. The proof should give the name of the applicant, identify the application on which it is based, and appropriately describe the land involved. It should show the periods each year applicant has resided on the land; the amount of the land cultivated each year to garden or other crops; the amount of crops harvested

each year; the number and kinds of domestic animals kept on the land by the applicant and the years they were kept there; the character and value of the improvements made by the applicant and when they were made, and the use if any to which the land has been put for fishing or trapping. The proof will be suspended by the Register pending the receipt of the reports hereinafter mentioned. The duplicate copy of the proof will be sent by the Register to the Clerk in Charge of the Branch Office of the Division of Investigations at Anchorage, and the triplicate copy to the Director of Education of the Indian Service in Alaska.

14. Reports to be Obtained by Register. The Register will request the Division of Investigations and the Director of Education of the Indian Service in Alaska to make report as to the bona fides of the claim and as to the occupation and improvement of the land by the applicant. The report of the Division of Investigations should also show whether the land applied for is nonmineral in character, whether it is within an area which is reserved because of hot or medicinal springs; whether the land is reserved for any purpose or is occupied or claimed adversely to the Indian or Eskimo; whether the land extends more than 160 rods along the shore of any navigable water, and the facts as to the use, occupation and improvement of the land by the Indian or Eskimo. If the land is affected by shore space or restriction, sufficient facts should be set forth to show whether the reservation or restriction should be waived.

15. Action by Register on Proof. When the above mentioned reports have been received, the Register will consider the proof in connection therewith, will attach to the proof his recommendation as to whether it should be accepted or rejected, and will transmit all papers in the case to the General Land Office with the semi-monthly returns.

16. Action by General Land Office on Proof. If the Commissioner of the General Land Office on examination of the proof and the reports thereon is satisfied that the applicant has used or occupied the land applied for in good faith for five years as an allotment, and no objection appears, he will recommend to the Secretary of the Interior that the allotment be approved.

Where an allotment is approved by the Secretary and where the land applied for has not been surveyed, a special survey of the claim will be ordered, except in cases where it is planned to extend the public land surveys over the land within two years following. In the event last mentioned, action will be suspended pending the extension of the public land surveys over the land, after which the applicant will be required to adjust his application thereto, as hereinabove indicated.

Upon the approval by the Secretary of the Interior of an allotment for surveyed land, or upon the adjustment of an approved allotment to a survey made subsequent to the approval of the allotment, a certificate will be issued by the Commissioner of the General Land Office showing that the land has been alloted to the Indian or Eskimo.

17. Certificate of Allotment. The certificate of allotment will be written in duplicate on form 4-203. The certificate will show the name and address of the applicant and the date of the approval of the application by the Secretary of the Interior; it will give a description of the land which has been allotted, and it will recite that the land shall be deemed the homestead of the allottee and his heirs in perpetuity and that it shall be inalienable and nontaxable until otherwise provided by Congress.

The original certificate will be sent by the General Land Office to the district land office for delivery to the claimant. The duplicate will be retained in the General Land Office with the record of the case as a part thereof. The General Land Office will advise the Commissioner of Indian Affairs of the issuance of the certificate and will instruct the Register to advise the Director of Education for the Indian Service in Alaska that the certificate has been issued.

18. Land Occupied by Indians or Eskimos. Lands occupied by Indians or Eskimos in good faith are not subject to entry or appropriation by others.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: June 22, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

103157

CIRCULAR 1360

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 26, 1935

Suspending annual assessment work on mining claims. Act of June 13, 1935, Public No. 129, 74th Congress.

Registers,

U. S. Land Offices.

Sirs:

For your information, and in order that you may inform inquirers relative thereto, your attention is called to the act of June 13, 1935, Public No. 129, providing for the suspension of annual assessment work on mining claims held by location in the United States, and reading as follows:

> "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provision of section 2324 of the Revised Statutes of the United States, which requires on each mining claim located, and until a patent has been issued therefor, not less than $100 worth of labor to be performed or improvements aggregating such amount to be made each year, be, and the same is hereby, suspended as to all mining claims in the United States during the year beginning at 12 o'clock meridian July 1, 1934, and ending at 12 o'clock meridian July 1, 1935: Provided, That the provisions of this Act shall not apply in the case of any claimant not entitled to exemption from the payment of a Federal income tax for the taxable year 1934: Provided further, That every claimant of any such mining claim, in order to obtain the benefits of this Act, shall file, or cause to be filed, in the office where the location notice or certificate is recorded, on or before 12 o'clock meridian, July 1, 1935, a notice of his

Cir 1360

> desire to hold said mining claim under this Act, which notice shall state that the claimant, or claimants, where entitled to exemption from the payment of a Federal income tax for the taxable year 1934: _And_ _provided_ _further_, That such suspension of assessment work shall not apply to more than six lode-mining claims held by the same person, nor to more than twelve lode-mining claims held by the same partnership, association, or corporation: _And_ _provided_ _further_, That such suspension of assessment work shall not apply to more than six placer-mining claims not to exceed one hundred and twenty acres (in all) held by the same person, nor to more than twelve placer-mining claims not to exceed two hundred and forty acres (in all) held by the same partnership, association, or corporation.

Attention is called to the fact that this Act does not apply to Alaska but applies only to claimants in the United States who are exempt from the payment of a Federal income tax for the taxable year 1934, and who file on or before 12 o'clock noon July 1, 1935, in the office where the location notice or certificate is recorded, a notice of their desire to hold the claims under the Act. The notice so filed should state that they were entitled to exemption from the payment of a Federal income tax for the year 1934.

It is to be observed that an individual who files such notice is not entitled to exemption from performing assessment work on more than six lode claims nor on more than six placer claims not to exceed 120 acres (in all) and that a partnership, association, or corporation is not entitled to such exemption on more than twelve lode claims nor on more than twelve placer claims not to exceed two hundred and forty acres (in all).

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: June 26, 1935

(Sgd) T. A. Walters,

First Assistant Secretary.

/

Office Copy

103546

Circular No. 1361

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

: Absences from homestead lands
: because of economic conditions.
: Act of May 22, 1935 (Public
: No. 64).

Registers,

United States Land Offices.

Sirs:

The act of May 22, 1935 (Public No. 64 - 74th Congress), entitled "An Act granting a leave of absence to settlers of homestead lands during the year 1935," reads as follows:

> "That any homestead settler or entryman who, during the calendar year 1935, should find it necessary, because of economic conditions, to leave his homestead to seek employment in order to obtain the necessaries of life for himself and family or to provide for the education of his children may, upon filing with the register of the district, his affidavit, supported by corroborating affidavits of two disinterested persons showing the necessity of such absence, be excused from compliance with the requirements of the homestead laws as to residence, cultivation, improvements, expenditures, or payment of purchase money, as the case may be, during all or any part of the calendar year 1935, and said entries shall not be open to contest or protest because of failure to comply with such requirements during such absence; except that the time of such absence shall not be deducted from the actual residence required by law, but a period equal to such absence shall be added to the statutory life of the entry: Provided, That any entryman holding an unperfected entry on ceded Indian lands may be excused from the requirements of residence upon the conditions provided herein, but shall not be entitled to extension of time for the payment of any installment of the purchase price of the land except upon proof satisfactory to the Secretary of the Interior that the entryman is acting in good faith and is financially unable to make the payments due, and upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder."

Leaves of absences for all or part of the year mentioned by this act may be granted thereunder to any homestead settler or entryman who has established actual residence upon the lands and who thereafter found it necessary because of economic conditions to leave his homestead to seek employment in order to obtain food and other necessaries of life for himself and family or to provide for the education of his children.

The application for such leave of absence must be filed in the proper district land office and give the name and present address of the applicant and be sworn to by him and corroborated by the affidavits of at least two witnesses in the land district or county within which the lands claimed under the homestead laws are located, before an officer authorized to administer oaths and using a seal. It must describe the land by legal subdivisions, section, township and range numbers, give the serial number of the entry and name of land office and show the date when residence was established thereon and how the same was maintained thereafter by giving the dates of the beginning and ending of all residence periods and of all absence periods, and the character of the improvements and cultivation performed by the applicant. It must set forth fully all the facts on which the claimant bases his right to a leave of absence, what effort was made to raise crops, giving the dates of the planting and the kind of crops planted, the purpose of his request for leave, and the period for which the leave is desired. The address of the claimant during his absence should also be supplied if possible.

The act applies to entrymen only if they have established residence upon their claims. It also applies to settlers who have not made entries. If the latter file application for leave of absence hereunder, you will assign them current serial numbers. If the settler has theretofore filed notice of his absence under the act of July 3, 1916 (39 Stat. 341), the application under this act will be given the serial number already assigned such notice of absence.

Relief may not be granted under this act in cases where entrymen have not complied with the law sufficiently to enable them to make acceptable proof within the statutory period of the entry as extended by invoking the provisions of this act or other relief acts. The period during which a homesteader is absent from his claim, pursuant to a leave duly granted under this act, can not be counted as a part of the actual residence on the land required by law, but an equivalent period may be added to the statutory life of the entry.

If the application for relief under this act is allowed, it will operate as a stay during the period for which the leave is granted against contest based upon the charge that the entryman has failed to comply with the law in the matter of residence, cultivation, improvements, expenditures, or payments of purchase price, prior to the filing of the application for leave of absence, in the absence of fraud in procuring the same.

If the showing made is satisfactory, you will promptly forward the application to this office by special letter with notation of your allowance thereof and advise the applicant of your allowance of this application by ordinary mail. If it is not satisfactory, you will reject the application, subject to the usual right of appeal, and all appeals will be promptly forwarded to this office by special letters.

Application for extension of time to make payment of any installment of the purchase price on homestead entries of ceded Indian lands.

Entrymen of ceded Indian reservation lands desiring relief under this act are not entitled to an extension of time for the payment of any installment of the purchase price of the land, except upon proof, satisfactory to the Secretary of the Interior, that the entryman is acting in good faith and is financially unable to make the payments due, and upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date such payment became due to and inclusive of the expiration of the period of relief granted.

An extension may be granted either to the 1935 anniversary of the date of entry or to December 31, 1935, at the election of the claimant.

Proof as to good faith and financial inability to pay the amount due must be made by affidavit, duly corroborated by two witnesses, or by other convincing evidence. Such proof must be submitted to the proper district land office which in turn will forward the same with recommendations to the Commissioner of the General Land Office for his consideration. The interest payment should be held by you as "unearned money" pending such consideration. If the proof is found sufficient an extension will be granted and you will be instructed to advise the claimant and to apply the money to the credit of the proper fund.

Where interest at the rate of 5 per centum, or other rate, has heretofore been paid and an extension of time for payment granted, the interest will not be recomputed at 4 per centum under the act of May 22, 1935. Where extensions of time for payment are desired beyond December 31, 1935, and where they may be granted under existing laws upon the payment of interest in advance at the rate of five per centum per annum or other rate, interest will be computed under such laws from December 31, 1935, to the expiration of the period of the extension.

Very respectfully,

Approved: July 5, 1935.

(Sgd) Fred W. Johnson,
Commissioner.

(Sgd) T. A. Walters,

First Assistant Secretary.

104455

RECEIVED
U.S. LAND OFFICE
BILLINGS, MONTANA
Date AUG 2 1935
Hour

Circular No. 1362

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 25, 1935

Instructions regarding homestead applications held suspended awaiting outcome of petitions for designation.

Registers,

United States Land Offices.

20188

Sirs:

The public lands in your district were temporarily withdrawn from all disposition under the public land laws, either by Executive Order No. 6910 dated November 26, 1934, or by Executive Order No. 6964 dated February 5, 1935.

These two withdrawals were made by the President pursuant to the authority vested in him by the act of June 25, 1910 (ch. 421, 36 Stat. 849), and the orders were made subject to "valid existing rights".

Any applicant for entry of the public lands having a valid right thereto existing at the date of the withdrawal order affecting the land involved, is protected by the savings clause of the order.

In your suspension files, you have pending homestead applications awaiting outcome of the accompanying petitions for designation.

It has been held uniformly that by the mere filing of an application to enter undesignated land under either the enlarged or stock-raising homestead acts, even though the application is accompanied with petitions for such designation, the applicant has acquired no rights to the land, such right being effective only on the date of designation.

In view thereof, you are directed to take action on the homestead applications in your suspension files awaiting outcome of the accompanying petitions for designation and reject the same, subject to the usual right of appeal, in so far as they relate to lands which were undesignated on the date of the withdrawal order including the lands in your district.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Cir 1362

105167

20151

~~20150~~

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

"L" MB 1343991

August 9, 1935.

Obsolete
See Circ 1738

CIRCULAR 1363

PHOSPHATE REGULATIONS AMENDED

CIRCULAR 696 MODIFIED

Registers,

United States Land Offices.

Sirs:

Under the existing regulations Circular 696 (47 L. D. 513), as amended by Circular 936 (50 L. D. 503), governing the disposition of phosphate deposits under the leasing act of February 25, 1920 (41 Stat. 437), and acts amendatory thereof, the practice is to award phosphate leases to applicants therefor without competitive bidding. This system of disposing of phosphate deposits has proved unsatisfactory.

Accordingly, sections 7 to 10, inclusive, of Circular 696 are hereby amended as follows:

> 7. Action by Register. - An application when filed with the district land office will be given the current serial number, promptly noted of record, and transmitted to the Commissioner of the General Land Office, accompanied with a statement as to the status of the lands embraced therein. After the receipt of such application, no applications, filings, or selections for the lands embraced therein will be permitted until so directed, except applications under this act.
>
> 8. Action in General Land Office. - Upon receipt in the General Land Office, said application will be referred to the Geological Survey for determination as to whether the lands or deposits are properly subject

Cir 1363

to lease, and to fix the minimum terms on the basis of which the lease will be offered for sale. When the lease applicant shall have signified his consent thereto, the lands or deposits will be advertised for lease to the bidder offering the highest bonus therefor; but if no bonus is offered the lease will be awarded to the petitioner, subject to the approval of the Secretary of the Interior.

8 (a). Notice of lease Offer. The Register of the appropriate district land office will be directed to publish notice of the offer of the lands or deposits for lease for a period of 30 days in a newspaper of general circulation to be designated by the Commissioner of the General Land Office in the county in which the lands or deposits are situated. Such notice shall state the date and the hour on which bids will be received at the district land office, such date to be not earlier than the last day of publication, and shall describe the land, the amount of royalty and rental to be charged, the minimum investment required, and that the sale of lease will be made at public auction at the time fixed to the qualified bidder offering the highest bonus for the privilege of leasing the lands or deposits on the terms therein set forth. A copy of the notice will also be posted in the district land office during the period of publication thereof. Publication of the offer will be at the expense of the Government.

All bidders at any public sale of leases are warned against committing any act by intimidation, combination, or unfair management, to hinder or prevent bidding thereat; in violation of section 59 of the Criminal Code of the United States, approved March 4, 1909.

9. Auction of lease. At the time fixed in the notice, the register will, by public auction at his office, offer the land or deposits for lease on the terms and conditions fixed in the notice to the qualified bidder of the highest amount offered as a bonus for the privilege of leasing the land, subject to the approval of the Secretary of the Interior. The successful bidder must deposit with the register on the day of sale a certified check or cash, for

one-fifth of the amount of his bid, such sum to be deposited by the register in his account "Trust funds-Unearned money."

9 (a). Right to reject bids. The right is reserved by the Secretary of the Interior to reject any and all bids; and should a bid be rejected, the deposit made by the bidder will be returned.

10. Action by Bidder. The successful bidder will be allowed 30 days from date of auction within which to (a) file in the district land office a lease, duly executed by him in quintuplicate in the form herein prescribed; (b) file evidence of qualifications as prescribed by paragraph 6 hereof, unless such evidence has theretofore been filed; (c) file the bond required by section 2 (b) of the lease, or United States bonds in lieu thereof under the act of February 24, 1919 (40 Stat. 1148); (d) pay the remainder of the bonus bid by him and the annual rental for the first year of the lease, together with the required filing fee of $2. for each 160 acres of land, or fraction thereof, but in no case less than $10.

10 (a). Action by district land office. At the end of the 30 days allowed the successful bidder, or sooner, if the foregoing be complied with by him, the district land office will forward by special letter all papers with full report of action taken. In case of default, the amount deposited by the bidder will be forfeited, and disposed of as other receipts under this act.

All former instructions relative to phosphate leases are hereby modified in so far as they are inconsistent herewith.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: August 9, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

1363

105168

Still in effect 5/27/54 RB.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

"L" MB 1343991

August 9, 1935.

Amended by Circ 1557

CIRCULAR 1364

SODIUM REGULATIONS AMENDED

CIRCULAR 1194 MODIFIED

Registers,

United States Land Offices.

Sirs:

Under the existing regulations Circular 1194 (52 L.D. 651), governing the disposition of sodium deposits under the leasing act of February 25, 1920 (41 Stat. 437), and acts amendatory thereof, the practice is to award sodium leases to applicants therefor without competitive bidding. This system of disposing of sodium deposits has proved unsatisfactory.

Accordingly, sections 4 to 8, inclusive, Title II, of Circular 1194 are hereby amended to read as follows:

> 4. Action in General Land Office. - Upon receipt in the General Land Office, said application will be referred to the Geological Survey for determination as to whether the lands or deposits are properly subject to lease, and to fix the minimum terms on the basis of which the lease will be offered for sale. When the lease applicant shall have signified his consent thereto, the lands or deposits will be advertised for lease to the bidder offering the highest bonus therefor; but if no bonus is offered the lease will be awarded to the petitioner, subject to the approval of the Secretary of the Interior.
>
> 5. Notice of Lease Offer. - The Register of the appropriate district land office will be directed to publish notice of the offer of the lands or deposits for lease for a period of 30 days in a newspaper of

See Circ 1577

1364 Sodium

general circulation to be designated by the Commissioner of the General Land Office in the county in which the lands or deposits are situated. Such notice shall state the date and the hour on which bids will be received at the district land office, such date to be not earlier than the last day of publication, and shall describe the land, the amount of royalty and rental to be charged, the minimum investment required, and that the sale of lease will be made at public auction at the time fixed to the qualified bidder offering the highest bonus for the privilege of leasing the lands or deposits on the terms therein set forth. A copy of the notice will also be posted in the district land office during the period of publication thereof. Publication of the offer will be at the expense of the Government.

In Circ 1577

All bidders at any public sale of leases are warned against committing any act by intimidation, combination, or unfair management, to hinder or prevent bidding thereat; in violation of section 59 of the Criminal Code of the United States, approved March 4, 1909.

6. Auction of lease. - At the time fixed in the notice, the register will, by public auction at his office, offer the land or deposits for lease on the terms and conditions fixed in the notice to the qualified bidder of the highest amount offered as a bonus for the privilege of leasing the land, subject to the approval of the Secretary of the Interior. The successful bidder must deposit with the register on the day of sale a certified check or cash, for one-fifth of the amount of his bid, such sum to be deposited by the register in his account "Trust funds-Unearned money."

6 (a). Right to reject bids. - The right is reserved by the Secretary of the Interior to reject any and all bids; and should a bid be rejected, the deposit made by the bidder will be returned.

In Circ 1577

7. Action by Bidder. - The successful bidder will be allowed 30 days from date of auction within which to (a) file in the district land office a lease, duly executed by him in quintuplicate in the form herein prescribed; (b) file evidence of qualifications as prescribed by paragraph 11 hereof, unless such evidence has theretofore been filed; (c) file the bond required by section 2 (b) of the lease, or United States bonds in lieu thereof under the act of February 24, 1919 (40 Stat. 1148); (d) pay the

remainder of the bonus bid by him and the annual rental for the first year of the lease, together with the required filing fee of $2. for each 160 acres of land, or fraction thereof, but in no case less than $10.

8. Action by district land office. - At the end of the 30 days allowed the successful bidder, or sooner, if the foregoing be complied with by him, the district land office will forward by special letter all papers with full report of action taken. In case of default, the amount deposited by the bidder will be forfeited, and disposed of as other receipts under this act.

All former instructions relative to sodium leases are hereby modified in so far as they are inconsistent herewith.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: August 9, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

1364 Sodium

Office Copy
105478

Circular No. 1365

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

August 14, 1935.

Extensions of time for
homestead and desert land
proofs under act of July 26,
1935 (Public No. 222, 74th
Congress).

- - - 0 - - -

Registers,

United States Land Offices.

Sirs:

The act of July 26, 1935 (Public No. 222, 74th Congress), entitled "An Act to further extend the period of time during which final proof may be offered by homestead and desert land entrymen", reads as follows:

> "That section 1 of the Act entitled 'An Act to extend the period of time during which final proof may be offered by homestead entrymen', approved May 13, 1932, as amended, is amended by striking out 'December 31, 1934' and inserting in lieu thereof 'December 31, 1935'."

The instructions in Circular No. 1311 will be followed in granting relief under this act, the only changes therein made necessary by this act being that wherever the year 1934 appears it should be changed to 1935 and the following should be added to the title:

> "Amended by Act of July 26, 1935 (Public No. 222), so as to apply to final proofs becoming due on or prior to December 31, 1935".

Such changes have been made on the supply of said circular in this office. You will make similar changes in all copies of said circular in your office before sending them out to persons making requests for same.

Very respectfully,

(Sgd) Fred W. Johnson
Commissioner.

Approved: August 14, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

106223 Still in effect 5/28/54

Part 286.6
CFR 43
4

CIRCULAR NO. 1366.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

See Circ 1309 + 1614

September 4, 1935.
#1366

AMENDMENT OF COAL TRESPASS REGULATIONS, CIRCULAR NO. 1309.

20404

Special Agents in Charge
and
Registers,

United States Land Offices.

Sirs:

Circular No. 1309, approved August 17, 1933, is hereby amended by changing paragraph 3b to read as follows: —

> For willfull trespass, payment must be made for the full value of the coal at the time of conversion without deduction for labor bestowed or expense incurred in removing and marketing the coal. Liberty Bell Gold Mining Company vs. Smuggler-Union Mining Company (203 Fed. 795). The mining of coal in trespass is presumed to be willfull, in the absence of persuasive evidence of the innocence and good faith of the trespasser. United States vs. Ute Coal and Coke Company (158 Fed. 20).

and by adding as paragraph No. 7, the following:

> The Commissioner of the General Land Office will not recommend, with knowledge of any unpaid balance due for coal mined in trespass, the issuance of a coal prospecting permit or lease to such a trespasser, until the trespass account is settled.

Very respectfully,

(Sgd.) Fred W. Johnson,
Commissioner.

Approved: September 4, 1935.

(Sgd.) Charles West,

Under Secretary.

Cir 1366

106230

Circular No. 1367.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

August 28, 1935.

Oil and gas leasing act
amended. Instructions.

Registers,

United States Land Offices.

Sirs:

By the act approved August 21, 1935 (Public No. 297½), Sections 13, 14, 17 and 28 of the leasing act of February 25, 1920 (41 Stat. 437), were amended. A copy of the act will be forwarded to you when available.

The amendatory act provides, among other things, that:

Lands subject to disposition under the act known or believed to contain deposits of oil and gas may be leased by the Secretary of the Interior to the highest responsible bidder at competitive bidding under general regulations, in leasing units of not exceeding 640 acres in as nearly compact form as possible. Such leases will be conditioned upon payment of a royalty of not less than 12½ per centum and an annual rental of not less than 25 cents per acre. Leases of lands not within a known structure of a producing oil or gas field shall be for a period of 5 years and so long thereafter as oil or gas is produced in paying quantities, and leases for lands within known producing structures for a period of 10 years and so long thereafter as oil or gas is produced in paying quantities.

The person first making application for lease of lands not within a known producing structure, including applicants for permits whose applications were filed after 90 days prior to the approval of the act, are entitled to preference rights to leases without competitive bidding, the royalty to be 12½ per centum where the production does not exceed 50 barrels of oil per well per day, and not less than 12½ per centum when the production exceeds 50 barrels of oil per well per day.

Prospecting permits shall be issued on the pending applications filed 90 days or more prior to the date of the act, but no permits based upon applications filed after 90 days prior to the date of the amendatory act will be issued. Applications for permits filed after 90 days prior to the date of the act shall be considered as applications for leases under the amendatory act.

Outstanding permits heretofore extended and not subject to cancelation for violation of the law or operating regulations are extended by the act to December 31, 1937, and may thereafter be extended for not exceeding one year by the Secretary of the Interior. The extension of permits not heretofore extended or which may be issued under the pending applications is authorized for a period of not exceeding two years where the Secretary of the Interior shall find that the permittee has been unable with the exercise of diligence to test the land in the two years for which the permit was issued, but in no case beyond December 31, 1938. The extensions to December 31, 1937, are granted by the act, and no application for extension nor action by the Secretary of the Interior is required. However, such extensions are subject to conditions of prior extensions, and where the prior extensions were on condition that stipulations be filed and unit plans of operation submitted for approval, these conditions must be complied with in order to make the extensions fully effective.

You will receive no more applications for oil and gas prospecting permits, and will promptly reject all such applications that have been filed after the date of the approval of the amendatory act, i. e., after August 21, 1935.

Pending receipt of approved regulations under the amendatory act, applications for leases of lands not within the geologic structure of a producing oil or gas field may be accepted and filed. Such applications may not include more than 640 acres of land in as compact a form as possible, and should cover so far as applicable the points outlined in Section 4 of Circular 672, and be accompanied by a filing fee of $10. The form of lease to be issued, bonds, royalty and rental requirements will be provided for in the regulations under the amendatory act, which will be issued as promptly as possible. You will note on any such application the date and hour of filing, and after noting your records, transmit the application to this office.

Action looking to the issuance of prospecting permits on the pending applications filed 90 days or more prior to the date of the act will be taken in regular order and as expeditiously as possible, the suspension of action directed by the Secretary of the Interior on May 4, 1935, having been terminated.

Very respectfully,

Approved: September 6, 1935.

(Sgd) Charles West,

Acting Secretary.

(Sgd) Fred W. Johnson,
Commissioner.

office copy

106516

Circular No. 1368

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1599760 "C" AJM

September 11, 1935.

Cultivation requirements
eliminated.
Act of August 19, 1935,
(Public No. 285).

See, also
1368-A in
C.F.R.

Special Agents in Charge
and
Register, United States Land Offices

Sirs:

The act of August 19, 1935 (Public No. 285 - 74th Congress), entitled "AN ACT To eliminate the requirement of cultivation in connection with certain homestead entries", provides as follows:

> That, exclusive of Alaska, the provisions of the homestead laws requiring cultivation of the land entered shall not be applicable to existing homestead entries made prior to February 5, 1935, or thereafter if based upon valid settlement prior to said date, and no patent shall be withheld for failure to cultivate such lands: Provided, That this Act shall not be construed to affect any provision of law requiring the cultivation of lands subject to the reclamation laws, nor to apply to entries made under the Forest Homestead Act of June 11, 1906 (34 Stat. 233).

The provisions of said act apply to existing homestead entries made in any of the public land States prior to February 5, 1935, and to those made thereafter if based upon valid settlements made prior to that date. In all cases where said act applies, no proof shall hereafter be rejected solely for failure to show that the cultivation requirements of the homestead laws have been complied with.

The law does not apply to homestead entries made subject to the provisions of the act of June 17, 1902 (32 Stat. 388), and amendments thereof, known as the reclamation law; or under the act of June 11, 1906 (34 Stat. 233), and amendments thereof, known as the law providing for entry of agricultural lands within national forests; or to homestead entries made in the Territory of Alaska.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

I concur:

(Sgd) B. W. McLaughlin,

Acting Director of Investigations.

Approved: September 11, 1935

(Sgd) Charles West,

Under Secretary.

Part 166

Still in effect 5/27/54 HB.

23756

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONTANA
Date MAY 28 1938
Item

Circular No. 1368a

CULTIVATION REQUIREMENTS ELIMINATED AS TO CERTAIN HOMESTEADS

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Circ 1368a.
See Circ. 541

1. Statutory Authority. The act of March 31, 1938 (Public No. 454--75th Congress), amended the act of August 19, 1935 (49 Stat. 659), so as to extend its provisions to applications made prior to February 5, 1935. As amended the act provides that, with certain specified exceptions, described in paragraph 3 hereof, the provisions of the homestead laws requiring cultivation of the land entered shall not be applicable to existing homestead entries made prior to February 5, 1935, or thereafter if based upon valid settlement or application made prior to said date, and no patent shall be withheld for failure to cultivate such lands.

2. Proofs Not To Be Rejected For Failure To Show Cultivation. In all cases where said acts apply, no proof shall be rejected solely for failure to show that the cultivation requirements of the homestead laws have been complied with.

3. Entries To Which Law Does Not Apply. The law does not apply to homestead entries made subject to the provisions of the act of June 17, 1902 (32 Stat. 388), and amendments thereof, known as the reclamation law; or under the act of June 11, 1906 (34 Stat. 233), and amendments thereof, known as the law providing for entry of agricultural lands within national forests; or to homestead entries in the Territory of Alaska.

(Sgd) Fred W. Johnson,

Commissioner.

Approved: May 4, 1938.

(Sgd) Oscar L. Chapman,

Assistant Secretary.

Cir 1368a

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

In Reply Please Refer To
Circular No. 1371 "C" AZ

October 4, 1935.

Disabled War Veterans authorized to make proof on their homestead entries, Act of August 27, 1935 (Public 377).

Registers,

United States Land Offices.

Sirs:

The Act of August 27, 1935 (Public No. 377 - 74th Congress), entitled "AN ACT To authorize certain homestead entrymen who are disabled World War veterans to make final proof of their entries and for other purposes", provides as follows:

> "That any entryman under the homestead laws of the United States who on or after April 6, 1917, and prior to November 12, 1918, enlisted or was a member of the United States Army, Navy, or Marine Corps during the war with Germany, who was honorably discharged from such service, whose entry was made prior to January 1, 1935, and who because of physical or mental disabilities has been or may hereafter become unable to perform the prescribed residential and improvement and other requirements may make proof without further residence, improvement, or cultivation, at such time and place as may be authorized and under such regulations to be issued by the Secretary of the Interior, and receive patent to the land by him so entered upon."

The benefits of this Act extend to persons who, on or after April 6, 1917, and on or before November 12, 1918, enlisted or were members of the United States Army, Navy, or Marine Corps during the war with Germany, were honorably discharged from such service, and whose homestead entries were made prior to January 1, 1935.

Notice of intention to submit final proof must be given in the usual manner by posting and publication.

The final proof should consist of:

(a) The testimony of two of the advertised witnesses having personal knowledge, taken in usual manner before the officer and at the time and place advertised, which officer must reside in the county or land district in which the land is situated, showing the facts as to claimant's compliance with the homestead law, if any, in connection with his entry before his disability prevented further compliance.

(b) An affidavit of the homesteader showing the same facts and that he is unable to perform the prescribed residence and improvements on account of his physical or mental disabilities and describing the nature and extent of such disability. This affidavit may be taken before any officer at any place who is authorized to administer oaths and who uses an official seal.

(c) The testimony of two other witnesses having personal knowledge (need not be advertised) taken in similar manner, corroborating the statements made by the homesteader in regard to his disability, and of these witnesses at least one must be a practicing physician.

(d) A copy of his discharge from the Army, Navy or Marine Corps, or an affidavit showing all the facts regarding his service and discharge, if same has not already been furnished. (In each case the facts will be verified from the records of the proper department of the government which had jurisdiction over his service.)

The final proof when received in your office must be forwarded to this office by special letter for consideration and appropriate instructions.

The regular final proof blanks should be used by witnesses testifying as to claimant's compliance with the law.

The "Notice for Publication" should read as follows:

U.S. Land Office at ________________

________________________________, 193__.

Notice is hereby given that ________(Name of Claimant)____________ of ____(Post Office Address), ___who made ____(Kind of Entry)__________ No. ________________, for ____

Sec. ___________, Township ___________, Range __________, _____Meridian, has filed notice of intention to make final proof in support thereof, pursuant to the provisions of the Act of August 27, 1935 (Stat.), on the ground that he is a World War Veteran and because of physical or mental disabilities has been unable to perform the prescribed requirements of the homestead law.

Claimant's affidavit as to the extent to which he had complied with the law before his disability prevented further compliance will be supported by the testimony of two of the following named witnesses which will be taken before ___(Name of Officer)____ at ____________________ on the ________ day of ___________________, 193___.

Names of Witnesses and Addresses:

____________________________ of _____________________

____________________________ of _____________________

____________________________ of _____________________

____________________________ of _____________________

____
Register

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: October 4, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

Circular No. 1371

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

October 4, 1935.

Disabled War Veterans authorized to make proof on their homestead entries, Act of August 27, 1935 (Public 377).

Registers,

United States Land Offices.

Sirs:

The Act of August 27, 1935 (Public No. 377 - 74th Congress), entitled "AN ACT To authorize certain homestead entrymen who are disabled World War veterans to make final proof of their entries, and for other purposes", provides as follows:

> "That any entryman under the homestead laws of the United States who on or after April 6, 1917, and prior to November 12, 1918, enlisted or was a member of the United States Army, Navy, or Marine Corps during the war with Germany, who was honorably discharged from such service, whose entry was made prior to January 1, 1935, and who because of physical or mental disabilities has been or may hereafter become unable to perform the prescribed residential and improvement and other requirements may make proof without further residence, improvement, or cultivation, at such time and place as may be authorized and under such regulations to be issued by the Secretary of the Interior, and receive patent to the land by him so entered upon."

The benefits of this Act extend to persons who, on or after April 6, 1917, and on or before November 12, 1918, enlisted or were members of the United States Army, Navy, or Marine Corps during the war with Germany, were honorably discharged from such service, and whose homestead entries were made prior to January 1, 1935.

Notice of intention to submit final proof must be given in the usual manner by posting and publication.

The final proof should consist of:

(a) The testimony of two of the advertised witnesses having personal knowledge, taken in usual manner before the officer and at the time and place advertised, which officer must reside in the county or land district in which the land is situated, showing the facts as to claimant's compliance with the homestead law, if any, in connection with his entry before his disability prevented further compliance.

(b) An affidavit of the homesteader showing the same facts and that he is unable to perform the prescribed residence and improvements on account of his physical or mental disabilities and describing the nature and extent of such disability. This affidavit may be taken before any officer at any place who is authorized to administer oaths and who uses an official seal.

(c) The testimony of two other witnesses having personal knowledge (need not be advertised) taken in similar manner, corroborating the statements made by the homesteader in regard to his disability, and of these witnesses at least one must be a practicing physician.

(d) A copy of his discharge from the Army, Navy or Marine Corps, or an affidavit showing all the facts regarding his service and discharge, if same has not already been furnished. (In each case the facts will be verified from the records of the proper department of the government which had jurisdiction over his service.)

The final proof when received in your office must be forwarded to this office by special letter for consideration and appropriate instructions.

The regular final proof blanks should be used by witnesses testifying as to claimant's compliance with the law.

The "Notice for Publication" should read as follows:

U.S. Land Office at ________________

______________________________, 193__.

Notice is hereby given that ______(Name of Claimant)____________ of __(Post Office Address),_____who made _(Kind of Entry)____________ No.________________, for ____

____

Sec.___________, Township ______________, Range _______, ____Meridian, has filed notice of intention to make final proof in support thereof, pursuant to the provisions of the Act of August 27, 1935 (Stat.   ), on the ground that he is a World War Veteran and because of physical or mental disabilities has been unable to perform the prescribed requirements of the homestead law.

Claimant's affidavit as to the extent to which he had complied with the law before his disability prevented further compliance will be supported by the testimony of two of the following named witnesses which will be taken before ___(Name of Officer)____ at ____________________ on the ________ day of ____________________, 193__.

Names of Witnesses and Addresses:

____________________________ of ________________________

____________________________ of ________________________

____________________________ of ________________________

____________________________ of ________________________

____

Register

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: October 4, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

Cir. 1372

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LAND OFFIC
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NOV 9

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1589472 "C" AZ

November 2, 1935.

: Certain lands subject
: to disposal under
: Taylor Grazing Act,
: June 28, 1934 (48 Stat.
: 1269).

Registers,

United States Land Offices.

Sirs:

Instructions were requested of the Department as to whether the Executive Order of November 26, 1934, No. 6910, as amended by Executive Order of May 20, 1935, No. 7048, bars the allowance of homestead entries under the authority of Section 7 of the Taylor Grazing Act in cases:

1. Where the land was withdrawn for the grazing district prior to the date of the Executive order.

2. Where the Executive order preceded the withdrawal for or by virtue of the establishment of the grazing district.

The Department instructed as follows:

"The said Executive order does not purport to affect lands embraced in prior reservations so long as such prior withdrawals are in effect. Therefore, where lands were withdrawn for the purpose of establishing a grazing district prior to the date of the Executive order, and if the grazing district has become established, I am of the opinion that the lands within the grazing district are subject to such use or disposal as is authorized by the Taylor Grazing Act (48 Stat. 1269). Section 7 of the act expressly provides for the allowance of

Cir 1372

homestead entries in grazing districts upon proper classification, in tracts of not exceeding 320 acres, but it is declared 'the lands shall remain a part of the grazing district until patents are issued therefor.'

But where the lands were not reserved for a grazing district prior to the date of the said Executive order, they are not subject to 'entry' prior to amendment or revocation of that order."

Since it is held the public lands in established grazing districts, where withdrawn for that purpose prior to the Executive order of November 26, 1934, are subject to disposition under the provisions of the Taylor Grazing Act, you will entertain all homestead applications filed under said act for such lands. See Circular 1353 for procedure.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Office Copy
109492

Circular No. 1373.

Superseded
See circ. 1845

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Part 147
43 CFR

AMENDMENT OF REGULATIONS GOVERNING EXCHANGES OF STATE LANDS UNDER SECTION 8 OF THE TAYLOR GRAZING ACT APPROVED JUNE 28, 1934 (48 STAT. 1269)

November 20, 1935

Registers,

United States Land Offices.

Sirs:

It is stated in the last paragraph of Section 12, under the title "Exchange of State Lands", of the Regulations (Circular No. 1346), dated February 8, 1935, governing land exchanges by the States under Section 8 of the Taylor Grazing law of June 28, 1934 (48 Stat. 1269), that

> "Payment of fees will be required at the rate of $2.00 for each selection of 160 acres or fraction thereof."

In lieu of the above-quoted instructions, you are instructed as follows:

> "Payment of fees will not be required in the case of an exchange by a State under said act."

Very respectfully,

Approved: November 20, 1935

Harold L. Ickes,

Secretary.

Fred W. Johnson,

Commissioner.

110065

Circular No. 1374.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Amended by Circ. 1460

"A" AJM 1623362

November 29, 1935.

Instructions concerning the recognition of attorneys and agents to practice before the District Land Offices and the Department of the Interior.

Registers,

U. S. District Land Offices.

Sirs:

Rule of Practice 87 provides:

> "Every attorney, before practicing before the Department of the Interior and its bureaus, must comply with the requirements of the regulations prescribed by the Secretary of the Interior pursuant to Section 5 of the Act of July 4, 1884 (23 Stat. 101)."

The laws and regulations governing the recognition of agents, attorneys and others representing claimants before the Department of the Interior and the bureaus thereof, approved September 27, 1917, are printed in Circular 1-367 and reported in 46 L. D. 206. The regulations governing the recognition of agents and attorneys before the district land offices as approved April 20, 1907, are reported in 35 L. D. 534, and paragraph 8 thereof, as amended April 16, 1923, provides:

> "Every attorney must, either at the time of entering his appearance for a claimant or contestant or within 10 days thereafter, file written authority for such appearance, signed by said claimant or contestant, and setting forth his or her present post-office address. Upon a failure to file such written authority, it is the duty of the Register and Receiver to no longer recognize him as agent in the case."

Cir 1374

By departmental order No. 615 issued under authority conferred by section 5 of the act of July 4, 1884 (23 Stat. 101), promulgated March 24, 1933 (54 I. D. 194), said regulations of September 27, 1917, governing the recognition of attorneys, agents and others to practice before the Department of the Interior and its bureaus, were amended by the addition of paragraph 8-a as follows:

> "8-a. No person who has been employed or has held any office or place of trust or profit in the Department of the Interior shall be permitted to practice, appear, or act as an attorney or agent in any case, claim, contest or other proceeding before the Department or before any bureau, board, division or other agency thereof, until two years shall have elapsed after the separation of the said person from the said service; and no attorney or agent admitted to practice before the Department shall employ or retain any such person for the purpose of making any personal appearance in any such case, claim, contest or other proceeding, before the expiration of the said two-year period."

This order is regarded as applicable also with respect to applications to practice before the district land offices.

These laws and regulations are called to your attention because of the increasing number of cases coming to this office in which it is found that appeals, pleadings, briefs, motions or other papers or communications are submitted in behalf of claimants to public lands by agents or attorneys who have not been admitted to practice before the Department or any of the bureaus thereof, or before the district land office in some instances.

You are instructed not to recognize as an attorney or agent any person who enters his appearance for a claimant or contestant in any case pending before you, unless you find that such attorney or agent has been admitted to practice before your office, or before the Department and its bureaus, which carries with it the right to practice before district land offices.

Reports from the Special Agent in Charge must be obtained by you on all applications for admission to practice before the district land office and reports made to this office on Form 4-285. (See Circular 947).

In case of an appeal to this office from action in the district land office where your records fail to show the attorney or agent has been admitted to practice before the Department or its bureaus, you will decline to forward the appeal unless the attorney or agent can produce a certificate showing he has been so admitted, except as hereinafter provided.

You will allow such attorney or agent 15 days from receipt of notice within which to file an application for admission to practice before the Department and its bureaus in which case he may exercise the rights and privileges of an admitted attorney while his application is pending in accordance with Rule 2 of the "Laws and Regulations Governing the Recognition of Agents, Attorneys, and Other Persons to Represent Claimants before the Department of the Interior and the Bureaus Thereof." (46 L.D. 206). With such notice you will send all necessary instructions for making application for admission to practice before the Interior Department and its bureaus including Circular 1-367 and Form 1-281, containing form of oath required of applicants for admission to practice.

If the attorney or agent does not file an application for admission within the time allowed, you will notify the applicant or entryman thereof and allow him 30 days from notice within which to either file a personal appeal or one through an attorney or agent properly admitted to practice before the Department. If no action is taken, you will forward the papers in the case to this office for final action.

In cases where an appeal has been signed by an attorney not admitted to practice and also by the claimant, you will notify the attorney as above indicated and that if he takes no action within the time allowed the appeal because it is signed by the claimant, will be transmitted to the General Land Office for such action as may be deemed proper. In such cases only the claimant will be entitled to notice of action taken by this office or the Department on the appeal.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: November 29, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary.

111335

Obsolete See Circ 1807

~~See Circ 1379~~

Circular No. 1375

REGULATIONS
GOVERNING THE LEASING OF PUBLIC LANDS EXECLUSIVE OF ALASKA, FOR THE GRAZING OF LIVESTOCK.

--- 0 ---

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

January 8, 1936.

Registers,

United States Land Offices.

Director of Grazing.

Director of Investigations.

Sirs:

Section 15 of the act of June 28, 1934 (48 Stat. 1269), provides that:

> The Secretary of the Interior is further authorized in his discretion, where vacant, unappropriated, and unreserved lands of the public domain are situated in such isolated or disconnected tracts of six hundred and forty acres or more as not to justify their inclusion in any grazing district to be established pursuant to this Act, to lease any such lands to owners of lands contiguous thereto for grazing purposes, upon application therefor by any such owner, and upon such terms and conditions as the Secretary may prescribe.

The following regulations will govern the leasing of lands under this section of the act:

I

Applications for Lease

1. An application for lease should be filed in quadruplicate on form 4-721, in the United States district land office

Cir 1375

for the district in which the lands applied for are situated, except that in the States in which there are no district land offices the application should be forwarded direct to the Commissioner of the General Land Office.

2. Where an application embraces lands within the jurisdiction of more than one district land office, the application shall be filed in quintuplicate in one of the land offices. The original application only need be sworn to.

3. Any person who is a citizen of the United States or who has declared his intention to become a citizen, or any group or association composed of such persons, or any corporation organized under the laws of the United States or of any State or Territory thereof authorized to conduct business in the State in which the lands involved are situated and owning lands contiguous to those sought to be leased may file such an application.

4. Owners as mentioned above means those who have complete dominion over the property, as the owner in fee of real property, also those who have acquired a vested interest in land and have a vested right to patent therefor from the United States. It does not include holders of unperfected homestead entries or leases.

5. The application to lease should set forth as follows:

(a) Applicant's name and post office address.

(b) A statement as to whether the applicant is a native-born or naturalized citizen of the United States, or has declared his intention to become a citizen. If naturalized, or a declarant, evidence thereof must be furnished.

(c) If the applicant is a corporation, a certified copy of the articles of incorporation must accompany the application, and if an association, a copy of the constitution and by-laws, and evidence of the citizenship of each member must be submitted.

(d) A description of the lands applied for must be furnished in terms of the legal subdivisions of the public land surveys, together with a statement as to whether the lands contain any springs or water holes, and whether the lands are occupied or used for any purpose and by whom.

(e) A description in terms of legal subdivisions of the public land surveys of the lands owned by the applicant upon which the application is based and the nature of the title thereto and when acquired.

(f) A statement as to the number and kind of stock to be grazed upon the lands, seasons of contemplated use, and the manner in which the applicant plans to graze the lands applied for in connection with his general operations.

(g) A statement as to what previous use, if any, the applicant has made of the lands applied for, and whether the lands have been used by any one else, if so, by whom, for what purpose, and to what extent.

(h) Evidence must be furnished that notice of the application has been served either personally or by registered mail, upon the owner or owners of all lands contiguous to those for which a lease is sought. Where service cannot be had on such owners or any of them, a showing must be submitted as to why service was not obtained, and what efforts were made to secure the same.

6. No application will be favorably considered which embraces less than 640 acres, but two or more isolated or disconnected tracts, if otherwise of the proper status and character and totaling 640 acres or more, may be included in an application.

7. In cases where applications conflict in whole or in part and a satisfactory adjustment cannot be made by the parties interested the award of a lease or leases will be determined by the Secretary of the Interior on the basis of all the facts presented.

8. The filing of an application under this section in conformity with these regulations for an area of 3840 acres or less will segregate the lands applied for from other disposition under the public land laws, subject to any prior valid adverse claim, except that at all times the mineral contents in the land shall be subject to prospecting, locating, developing, mining, entering, leasing or patenting under the provisions of the applicable laws, but will not confer on the applicant any right to exercise proprietorship or control over the lands pending action on the application.

9. The filing of an application for 3840 acres or less will not segregate the land applied for from application by other applicants for grazing lease. Conflicting or junior applications will be received, noted and disposed of in the same manner as senior or prior applications.

10. If an application embraces an area in excess of 3840 acres, the applicant may designate a tract or tracts in compact form and not to exceed 3840 acres which he desires to be segregated

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by virtue of the application. If such a designation is made by the applicant, the land not so designated will not be segregated by the filing of the application but may be thereafter segregated by appropriate instructions upon a satisfactory showing that the inclusion of more than 3840 acres in the lease is warranted.

11. As the issuance of a lease is within the discretion of the Secretary of the Interior, the filing of an application for a lease will not in any way create any right in the applicant to a lease.

12. Every applicant for a lease must pay to the register of the district land office, at the time of filing an application, a fee of five dollars if his lease application is for 1,000 acres or less, and an additional five dollars for each additional 1,000 acres or fractional part thereof, which fee will be held suspended by the register, pending action on the application. If the application is rejected the fee will be returned. If a lease, based on the application, is offered the applicant, and he refuses to accept the same, the fee will be retained and earned, as a service charge.

13. Evidence must be furnished that notice of the application has been published in some newspaper having a general circulation in the vicinity of the lands applied for. The register will prepare the notice of publication and designate the newspaper in which publication will be made. The expense of the publication shall be borne by the applicant. If the register designates a daily paper the notice should be published in the Wednesday issue for five consecutive weeks; if weekly, in five consecutive issues, and if semiweekly, in either issue for five consecutive weeks.

14. If a protestant against the issuance of a lease desires to lease all or part of the land embraced in the application against which a protest is filed, the protest should be accompanied by an application to lease.

II

Action on Applications

15. Upon receipt of an application, the register of the district land office will assign the current serial number thereto, note the same on his records, and if all is found to be regular, forward the original to this office, the duplicate to the Director of Grazing, and the triplicate to the Special Agent in Charge of the Division of Investigations for the division in which the lands are situated. The original, duplicate, and triplicate applications should be accompanied with a status report by the register of all the lands applied for.

16. The quadruplicate copy will be retained by the register for his files. In case the land applied for embraces land also in another land district and a quintuplicate copy has been furnished as provided in paragraph No. 2 hereof, the said copy will be forwarded to the appropriate land office for notation and serialization.

17. The register of the land office receiving the quintuplicate copy will furnish a report to this office, the Special Agent in Charge and the Division of Grazing as to the status of the land in his district embraced in the application for lease. The balance of the administrative work up to the point of issuing the lease will be handled through the one office in which the complete application is filed.

18. The Director of Grazing will submit a report immediately to the Special Agent in Charge as to whether the lands are so situated as not to justify their inclusion in a grazing district.

19. Upon receipt of the triplicate application, and clearance by the Division of Grazing, the Special Agent in Charge will have an investigation made and submit a report to this office as to the applicant's qualifications and the pertinent facts as to any and all conflicting applications.

20. The report of the Special Agent in Charge shall also include the carrying capacity of the land applied for, its value for livestock purposes, and the rental value of the land, due regard being given to the number and kind of livestock to be grazed thereon.

III

Issuance of Leases

21. If, upon receipt of the reports above mentioned, this office, after careful consideration of all the facts presented, determines that the applicant is entitled to a lease, it will prepare and send to the district land office, for execution by the applicant, a proposed lease, in quadruplicate. If the proposed lease is properly executed and returned to this office, it will be transmitted with appropriate recommendation to the Secretary of the Interior for consideration and if executed by him, the original will be retained in this office and the copies sent; one to the applicant through the district land office, one for the district land office files, and one to the Comptroller General of the United States.

IV

Rental

22. Each lessee shall pay to the proper district land office, in advance, such annual rental as may be determined to be a fair compensation to be charged for the grazing of livestock on the leased land.

V

Duration of Leases

23. Leases will be issued in the discretion of the Secretary of the Interior for a period of not more than ten years, and the lessee, if he complies with all the rules and regulations and terms of his lease and continues to be otherwise qualified, will have a preference right to a renewal of the lease at the discretion of the Secretary of the Interior. Leases issued during the calendar year of 1936 will, however, be limited to one year.

VI

Use of Lands

24. The lands included in a lease may be used for grazing or for related purposes only, subject to conditions, limitations, and restrictions deemed appropriate by the Secretary of the Interior to insure conservation of the natural resources.

25. After the issuance of a lease, the lessee may fence the land or any part thereof, develop water by wells, tanks, water holes, or otherwise, and make or erect other improvements for grazing and stock-raising purposes so long as such improvements do not impair the value of the lands. Upon the cancellation of a lease for any reason, or upon termination of a lease except when a renewal is requested, the lessee will be afforded a reasonable period to be determined by the Secretary of the Interior, for the removal of all structures that may have been erected by him, but if not removed or other disposition made within the period of time specified, such structure shall become the property of the United States.

VII

Causes for Cancellation

26. A lease will be subject to cancellation by the Secretary of the Interior:

(a) If the lessee shall persistently overgraze the lands or use them in any manner which will encourage soil erosion or for any purposes detrimental to the lands or the livestock industry.

(b) If the lessee uses the leased premises, or any part thereof, for any purpose foreign to grazing or in violation of any terms of the lease.

(c) If the lessee shall fail to pay the annual rental, or any part thereof.

(d) If the lessee shall fail to comply with any part of these regulations or the terms of the lease.

Each lessee must accept as final any devision rendered by the Secretary of the Interior with reference to the violations of the terms of the lease, and, if required by the decision, to surrender the leased premises to the United States.

VIII

Inspection

27. Representatives of the Secretary of the Interior shall at any time have the right to enter the leased premises for the purpose of inspection.

IX

Assignment

28. Proposed assignments of a lease in whole or in part, must be submitted to the Secretary for approval, must be accompanied by the same showing by the assignee as is required of applicants for a lease, and supported by a showing as to the necessity therefor. No assignment will be recognized unless and until approved by the Secretary of the Interior.

29. These regulations shall be considered to be a part of every grazing lease issued pursuant to the provisions of this Act.

30. These instructions supersede the preliminary instructions of September 20, 1934, Circular No. 1336. Applications filed

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prior to these regulations must be amended in accordance herewith.

31. Forms of application and lease are attached and made a part hereof.

Very Respectfully,

(Sgd) Fred W. Johnson,

Commissioner.

I concur:

(Sgd) F. R. Carpenter,

Director, Division of Grazing.

I concur:

(Sgd) Louis R. Glavis,

Director, Division of Investigations.

Approved: January 8, 1936.

(Sgd) T. A. Walters,

Acting Secretary.

(To be filed in quadruplicate) 111335

FORM 4-721

UNITED STATES
DEPARTMENT OF THE INTERIOR

Application for Grazing Lease

United States Land Office ______________ Serial No. ______

Receipt No. ______

Date ________________, 19____

(1) I, ____________________ (Name of applicant) of ____________________ (Post office address)

hereby apply to lease under section 15 of the act of June 28, 1934 (48 Stat. 1269), the ________________________________

____

____

Section_________, Township _________, Range ________, Meridian ___________, containing ________acres, within the ___________ Land District.

(If the lands applied for are within two land districts the application should be filed in quintuplicate. A description of the lands should be given by legal subdivision if surveyed, or if not surveyed, by metes and bounds or such other description as will fully identify the land).

(2) Describe by legal subdivision the lands owned by you which are contiguous to those applied for herein and used as a basis for this application

Section ________, Township_________, Range_______, Meridian_______.

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(a) How many acres of your privately owned lands are under cultivation? ____________________acres.

(b) How many acres are used for grazing purposes? ____________________acres.

(3) State briefly your experience in the livestock industry and give two references.

____

____

____

(4) State what interests, if any, you have in any other lease or pending application for lease under section 15 of the act approved June 28, 1934.

____

____

____

(5) Are you a citizen of the United States?___________

By birth?____________ By naturalization? ______________________.

(If by naturalization, evidence of such naturalization must be furnished).

If not a citizen, have you filed the necessary declaration of intention to become such?__________. When?____________

_______________ Where?__________________________.

(If the applicant is a corporation, a certified copy of the articles of incorporation together with a copy, signed by proper official, of the minutes of the meeting authorizing the

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filing of the application and, if an association, a copy of the Constitution and by-laws, and evidence of the citizenship of each member must be submitted.)

(6) Do the lands applied for contain any springs or water holes? __________. If so, describe them giving the location by section, township and range.

____

(a) Are the lands occupied or used for any purpose? ______________. By whom? ________________________________.

For what purpose? ______________________________.

(7) Do you own or control any source of water supply needed or used for livestock purposes? ______________.

Describe it. ____

Where located ____
(Subdivision, section, township and range).

(8) State the number and kind of stock to be grazed on the leased lands________________________________, seasons of contemplated use______________________________, the manner in which you plan to graze the lands applied for in connection with your general operations. ____________________________________

____

(9) Have you previously used the lands covered by this application? ______________. If so, for how many years and for what usual period each year? __________________.

1375

(a) How many stock have you grazed thereon during the average year? ________________________.

(10) Have the lands been used for grazing purposes in the past by any other person? ________________. If so, by whom? ____________ To what extent? ________________.

(11) How many head of livestock do you own? ________.

Cattle______; Horses ________; Sheep ________; Goats ______.

____
(Signature of applicant)

Subscribed and sworn to before me
this the ________day of __________, 19___.

____

____
(Official designation of Officer.)

FORM 4-722

Form of Lease

Leases hereunder will be in substance as follows:

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

LEASE OF LANDS FOR GRAZING LIVESTOCK

Section 15 of the Act of June 28, 1934 (48 Stat. 1269).
(To be Executed in Quadruplicate.)

Serial__________________

This indenture of lease, entered into as of ________________ by and between the United States of America, party of the first part, hereinafter called the lessor, acting in this behalf by the _________________________ and _______________________ party of the second part, hereinafter called the lessee, under, pursuant, and subject to the terms and provisions of the act of Congress approved June 28, 1934 (48 Stat. 1269), entitled "An Act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," hereinafter referred to as the act, which is made a part hereof.

WITNESSETH:

That the lessor, in consideration of the rents to be paid and the covenants to be observed as herein set forth, does hereby grant and lease to the lessee and exclusive right and privilege of using for grazing purposes the following described tract of land:

containing approximately________ acres, together with the right to construct and maintain thereon all buildings or other improvements necessary to the full enjoyment thereof, for a period of __________ years, and if at the end of said period the Secretary of the Interior shall determine that a new lease should be granted, the lessee herein will be accorded a preference right thereto upon such terms and for such duration as may be fixed by the lessor.

In consideration of the foregoing, the lessee hereby agrees:

(a) To pay the lessor a yearly rental_______________

____

____

(b) To observe the laws and regulations for the protection of game animals, game birds, and nongame birds, and not unnecessarily disturb such animals or birds.

(c) That neither he nor his employees will set fires that will result in damage to the range or to wild life, and to extinguish all camp fires started by him or any of his employees before leaving the vicinity thereof.

The lessor expressly reserves:

(a) The right to permit prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources, and to dispose of such resources under any laws applicable thereto; the right to permit the use and disposition of timber on the lands embraced in this lease, under existing laws and regulations; and nothing herein contained shall restrict the acquisition, granting or use of permits or rights of way under existing law.

(b) The right to close portions of the leased area to grazing whenever, because of drought, epidemic of disease, incorrect handling of the stock, overgrazing, fire, or other cause, such action is deemed necessary to restore the range to its normal condition. However, such temporary closing of any area shall not operate to exclude such area from the boundaries of a lease.

(c) The right to reduce the leased area if it is excessive for the number of stock owned by the lessee.

(d) The right to exclude stock from a specified area whenever it is determined that such area is required for the protection of camping places, sources of water supply to communities, stock driveways, roads and trails, townsites, mining claims, and for feeding grounds near villages for the use of draft animals or near the slaughtering or shipping points for use of stock to be marketed.

It is further understood and agreed:

(a) That the lessee expressly agrees that authorized representatives of the Department of the Interior at any time shall have the right to enter the leased premises for the purpose of inspection, and that Federal agents, including game wardens, shall at all times have the right to enter the leased area on official business.

(b) That the lessee shall not sell or remove for use elsewhere any timber growing on the leased land but may take such timber thereon as may be necessary for the erection and maintenance of improvements required in the operation of this lease.

(c) That this lease is granted subject to valid existing rights and to all rules and regulations which the Secretary of the Interior has prescribed.

(d) That the lessee may construct, or maintain and utilize, any fence, building, corral, reservoir, well, or other improvements needed for the exercise of the grazing privileges of this lease, but any such fence shall be so constructed as to permit ingress and egress for miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

(e) That the lessee shall take all reasonable precaution to prevent and suppress forest, brush and grass fires.

(f) That upon the termination of this lease by expiration or forfeiture thereof pursuant to paragraph (i) hereof, in the absence of an agreement to the contrary, if all rental charges due the Government have been paid, the lessee may, within a reasonable period, to be determined by the lessor, remove or make other disposition of all property belonging to him, together with any fence, building, or other removable range improvements of any kind owned or controlled by him, but if not removed within the period

of time specified by the lessor, such property, buildings, and improvements shall become the property of the United States.

(g) That the lessee agrees to comply with all Federal and local laws regarding sanitation and such other sanitary measures as may be necessary.

(h) That the lessee will not so enclose roads or trails commonly used for public travel as to interfere with the traveling of persons who do not molest grazing animals.

(i) If the lessee shall fail to pay the rental as herein specified, or shall fail to comply with the provisions of the act, or make default in the performance or observance of any of the terms, covenants, and stipulations hereof or of the general regulations promulgated and in force at the date hereof, and such default shall continue 60 days after service of written notice thereof by the lessor, then the lessor may, in his discretion, terminate and cancel this lease.

Section 8. It is further covenanted and agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

IN WITNESS WHEREOF:

THE UNITED STATES OF AMERICA,

By______________________________
Secretary of the Interior, Lessor.

____

____

Witness to signature of Lessee:

____

____

____

1375

CEIVED 112167
U. S. LAND OFFICE
BILLINGS, MONTANA
Date JAN 31 1936
Hour

Part 250-CFR 43
See Circ. 1860

Circular No. 1376

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

January 23, 1936.

Instructions relative to applications under sections 8, 14 and 15 of the Taylor Grazing Act.

Circ. 1376

Obsolete - See Director's memo.
2/16/49.

Registers,

U. S. District Land Offices.

Sirs:

By paragraph 5b, Circular 684, paragraphs 5 and 13 of Circular 1346, and paragraph 15 of Circular 1375, you were required, among other things, to forward copies of applications under sections 8, 14 and 15 of the Taylor Grazing Act approved June 28, 1934 (48 Stat. 1269), to the Director of Grazing for appropriate report.

With a view to expediting action as much as possible on such cases arrangements have been made with the Division of Grazing whereby copies of only those applications under said sections that involve public lands within certain well-defined areas need be submitted to that division for report. For your information there is forwarded herewith to each of you a State map approved by the Division of Grazing upon which is delineated the areas referred to in so far as your land district is concerned. It follows therefore that copies of applications for exchanges of State lands under section 8, applications to have isolated tracts ordered into the market for sale under section 14 and applications for grazing leases under section 15 of said act involving public lands entirely outside of the areas shown on the maps herewith need not be forwarded to the Division of Grazing as now required. You will otherwise proceed with such applications in accordance with the regulations.

This action is taken with a view to expediting as much as possible applications under said sections 8, 14 and 15, and to that end you will avoid all unnecessary delay.

Copies of applications that have already been forwarded to the Division of Grazing involving lands outside of the areas in question need not be recalled as the Division of Grazing will take no action thereon. Therefore you will proceed with the same as otherwise required by the regulations.

Very respectfully,

Fred W. Johnson,
Commissioner.

I concur:

Depue Falck

Acting Director, Division of Grazing.

Circ 1376

Office Copy

113854

Still in effect 5/27/54
amended by Circ 1538

CIRCULAR NO. 1378

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

February 26, 1936

1617532 "K" JPH

REGULATIONS GOVERNING EXCHANGES FOR MIGRATORY BIRD OR OTHER WILDLIFE REFUGES UNDER SECTIONS 303 AND 304 OF ACT OF JUNE 15, 1935 (PUBLIC NO. 148-74th CONGRESS).

Registers,

United States Land Offices.

Sirs:

Sections 303 and 304 of the Act of June 15, 1935 (Public No. 148-74th Congress), read as follows:

> "Sec. 303. That when the public interests will be benefited thereby the Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States title to any lands which, in the opinion of the Secretary of Agriculture, are chiefly valuable for migratory bird or other wildlife refuges, and in exchange therefor may patent not to exceed an equal value of surveyed or unsurveyed, unappropriated, and unreserved, nonmineral public lands of the United States in the same State, the value in each case to be determined by the Secretary of Agriculture. Before any such exchange is effected notice thereof, reciting the lands involved, shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counites in which may be situated the lands proposed to be granted by the United States in such exchange. Lands conveyed to the United States under this section shall be held and administered by the Secretary of Agriculture under the terms of section 10 of the aforesaid Migratory Bird Conservation Act of February 18, 1929, and all the provisions of said section of said Act are hereby extended to and shall be applicable to the lands so acquired.
>
> Sec. 304. That all the provisions of section 6 of the aforesaid Migratory Bird Conservation Act, as hereby amended, relating to rights-of-way, easements, and reservations shall

> apply equally to exchanges effected under the provisions of this Act, and in any such exchanges the value of such rights-of-way, easements, and reservations shall be considered in determining the relation of value of the lands received by the United States to that of the land conveyed by the United States."

1. Informal application. All preliminary negotiations relating to an exchange under the above act are to be conducted with the Department of Agriculture. Any owner of land subject to exchange who desires to take advantage of the privileges conferred by the said act, must file with the local representatives of the Biological Survey or with the Department of Agriculture, an informal application describing the privately owned land which is offered to the United States and the public land which is selected in exchange therefor. The land offered to the United States must be chiefly valuable for migratory bird or other wildlife refuges, while the land selected in exchange must be unappropriated and unreserved nonmineral public land of the United States, which may be surveyed or unsurveyed. If the Secretary of Agriculture is of the opinion that the offered land is chiefly valuable for migratory bird or other wildlife refuges, he will advise the applicant thereof, together with his determination as to the values of the offered and selected lands giving the prices thereof and whether in his opinion the exchange should be consummated and shall instruct the applicant to file in the district land office having jurisdiction over the selected land or in the General Land Office when there is no United States district land office within the State, the said letter of information and instructions together with a formal application to exchange, the affidavits and filing fees more specifically referred to in the following paragraph numbered 2.

2. Formal application, affidavits and fees. The formal application should contain the full name and post office address of the applicant, a description of the land offered to the Government and the land selected in exchange therefor (in this connection see below), a statement as to what, if any, reservations, easements or rights-of-way are being made in the offered land, and should be accompanied by the letter received from the Secretary of Agriculture with reference to the proposed exchange. The offered and selected lands in the formal application must be identical with the lands referred to in the letter of the Secretary of Agriculture, must be in the same State, and should be described by legal subdivisions of the public land surveys, except where unsurveyed land is selected and in which case the description thereof shall conform to the instructions of November 3, 1909 (38 L. D. 267). Where application is made to select unsurveyed land, such land must be surveyed, the application and valuation must be adjusted to survey and the nonmineral character must be determined with reference to the survey, before patent can issue for such selected land. The application must be accompanied by an affidavit showing that the applicant is legally capable of consummating the exchange, that such offered land is not the basis of another selection or exchange, and that the selected land is unreserved unappropriated, nonmineral land not occupied, claimed, improved or cultivated by any person adversely to the

applicant. The application must be accompanied with a corroborated affidavit relative to springs and water holes on the selected lands, in accordance with existing regulations pertaining thereto. Payment of fees will be required at the rate of $2.00 for each selection of 160 acres or fraction thereof, and should be submitted with the formal application.

3. Action by General Land Office. If the application for exchange appears regular and in conformity with the law and these regulations, the Register will assign the current serial number thereto, make appropriate notations thereof upon his records, and transmit the formal application and additional records to the General Land Office, together with a report as to any conflicts of record. The formal application, affidavits and letter to the applicant by the Secretary of Agriculture, will upon receipt in the General Land Office, be examined and if found regular and in conformity with the law and if in the opinion of the Secretary of the Interior the public interests will be benefited and the application should be approved, the applicant will be required through the Register of the district land office, to submit proof of publication of notice, a deed of conveyance of the offered land duly recorded, an abstract of title showing that at the time the deed of conveyance to the United States was recorded the title to the lands covered by such deed was in the party making the conveyance, and a certificate as to the payment of taxes, all of which matters are more specifically referred to in the paragraphs hereinafter numbered 4, 5, 6, 7.

4. Publication of Notice. The publication notice must give the name and post office address of the applicant, serial number and date of the application, act under which the application is filed, describe both the selected land and offered land as required above in the application, and state that the purpose of the notice is to allow all persons claiming the selected or having bona fide objection to such exchange an opportunity to file their protests or other objections in the district land office, or in the General Land Office, together with evidence to show that a copy of such protest or objection has been served upon the applicant. Such notice must be published at the expense of the applicant once a week for four consecutive weeks in some designated newspaper of general circulation in the county or counties in which may be situated the lands selected in exchange. In the event the newspaper is a daily, the publication should be made in the Wednesday issue thereof. A similar notice will be posted in the district land office during the required period of publication and the register shall certify as to such posting of notice. Such notice for publication will be sent by the General Land Office to the register for forwarding by him to the applicant with instructions for publication in the newspaper or newspapers designated, but when there is no district land office in the state, the notice will be sent direct to the applicant by the General Land Office with instructions for publication. Proof of publication of notice shall consist of an affidavit by the publisher, or foreman, or other proper employee of the newspaper, showing the dates of publication, and attaching thereto a copy of the notice as published.

5. Deed of Conveyance. The deed of conveyance to the United States must be executed, acknowledged and duly recorded in accordance with the laws of the State in which the lands are situated. Such revenue stamps as are required by law must be affixed to the deed and canceled. The deed should recite that it is made "for and in consideration of the exchange of certain lands, as authorized by section 303 of the Act of June 15, 1935 (Public No. 148-74th Congress)." Where such deed is made by an individual, it must show whether the person making the conveyance is married or single. If married, the wife or husband of such person as the case may be, must join in the execution and acknowledgment of the deed in such manner as to bar effectually any right of curtesy or dower, or any claim whatsoever to the land conveyed, or it must be fully and satisfactorily shown that under the laws of the State in which the land conveyed is situated, such husband or wife has no interest whatsoever, present or prospective, which makes his or her joining in the deed of conveyance necessary. Where the deed of conveyance is by a corporation, it should be recited in the instrument of transfer that the deed was executed pursuant to an order or by the direction of the board of directors, or other governing body, and a copy of such order or direction must accompany such instrument of transfer and both should bear the impression of the corporate seal.

6. Abstract of Title. The abstract of title must show that the title memoranda contained therein are a full, true and complete abstract of all matters of record or on file in the offices of the recorder of deeds and in the offices of the clerks of courts of record of that jurisdiction, including all conveyances, mortgages, pending suits, judgments, liens, lis pendens, or other encumbrances or instruments which are required by law to be filed with the recording officer and which appear in the records of the office of the clerks of courts of record affecting in any manner whatsoever the title to the land to be conveyed to the United States. The abstract of title may be prepared and certified by the recorder of deeds or other proper officer under his official seal, or it may be prepared and authenticated by an abstractor or by an abstract company, approved by the General Land Office, in accordance with section 42 of the mining regulations of April 11, 1922 (49 L. D. 15, 69).

7. Taxes. The applicant must furnish a certificate by the proper official of the county in which the land conveyed to the United States is situated, showing that all taxes levied or assessed against the land conveyed to the United States, or that could operate thereon as a lien, have been fully paid, or whether there is a tax due on such land that could operate as a lien thereon but which tax is not yet payable and that there are no unredeemed tax sales and no tax deeds outstanding against such land conveyed to the United States. In case taxes have been assessed or levied on lands conveyed to the United States, and such taxes are not due and payable until some future date, the applicant in addition to the certificate above required relative to taxes and tax assessments, may furnish a bond with qualified corporate surety for the sum of twice the amount of taxes

paid on the land for the previous year in order to indemnify the United States against loss for the tax as assessed or levied but not yet due and payable. In lieu of the bond the applicant may submit a sum similar to that required in the bond, and if and when proper evidence is furnished showing the taxes on the land conveyed have been paid in full, the said sum will be returned to the applicant.

8. Further Action by General Land Office. The publication of notice, deed of conveyance, abstract of title and other evidence required of the applicant will, upon receipt in the General Land Office, be examined, and if found regular and in conformity with law, and there are no objections, title will be accepted to the land conveyed to the United States and patent will issue for the land selected in exchange. Notices of additional requirements, rejection or other adverse action will be given, and the right of appeal, review, or rehearing recognized in the manner prescribed by the Rules of Practice before the Interior Department. Protests against exchanges should be filed in the district land office for transmittal to the General Land Office, where they will be considered.

9. Quitclaims. In the event the application for exchange is finally rejected or the selection canceled for any reason, the abstract of title will be returned, and the applicant will be advised of his right to apply for a quitclaim deed under existing law for the land conveyed to the United States.

10. Jurisdiction over land conveyed to the United States. Land conveyed to the United States in an exchange under section 303 of the act of June 15, 1935, supra, shall, upon acceptance of title thereto, be held and administered by the Secretary of Agriculture under the terms of section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat., 1222).

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner, General Land Office.

Approved: November 19, 1935.

(Sgd) T. A. Walters,

First Assistant Secretary of the Interior.

(Sgd) M. L. Wilson,

Acting Secretary of Agriculture.

114273

Obsolete –
See Cir. 1807

MAR 26 1936

CIRCULAR NO. 1379

AMENDING CIRCULAR NO. 1375 BY ELIMINATING PUBLICATION REQUIREMENT.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

March 5, 1936

Registers,

United States Land Offices.

Sirs:

Under paragraph 13 of the regulations contained in Circular No. 1375, entitled "Regulations Governing the Leasing of Public Lands Exclusive of Alaska for the Grazing of Livestock", each applicant for a grazing lease under section 15 of the act approved June 28, 1934 (48 Stat. 1269), is required to furnish evidence that a notice of the application has been published in some newspaper having a general circulation in the vicinity of the lands applied for.

The purpose of this requirement is to give notice of the lease application in order that any adverse claim may be timely asserted.

Since paragraph 5 (h) of Circular No. 1375, requires service of notice upon all owners of lands contiguous to those for which lease is sought and the lease form itself states that the lease is granted subject to valid existing rights, it is not now considered essential that publication of the notice of the lease application be

Cir 1379

required. The omission of such publication would not only relieve the applicant of the expense thereof but would also eliminate a delay of at least five weeks in taking final action on the application.

Therefore, the regulations contained in Circular No. 1375 are hereby amended by eliminating therefrom the requirement as to publication of notice of the application for lease, as set forth in paragraph 13 thereof.

Very respectfully,

(Sgd.) Fred W. Johnson,
Commissioner.

Approved: March 5, 1936
(Sgd.) T. A. Walters,
First Assistant Secretary.

115251

Circular No. 1382

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

"K" CGP

March 28, 1936.

: Instructions relative to
: the collection of fees for
: grazing licenses issued
: during the calendar year 1936.

Registers,

U. S. Land Offices.

Sirs:

On March 2, 1936, the Secretary of the Interior approved "Rules For Administration of Grazing Districts", under the act of June 28, 1934 (48 Stat. 1269).

Your attention is directed to that part of the rules found on page three thereof, under the heading of "Fees", which reads as follows:

> "A grazing fee of five (5) cents per head, per month, or fraction thereof, for each head of cattle or horses, and one (1) cent per month, or fraction thereof, for each sheep or goat, shall be collected from each licensee except free-use licensees".

Where the license is for three months or less, the fees must be paid in full in advance for the period of the license, but a fraction of a month will be computed as a whole month in calculating the fee.

The licensee may elect to make payment in full or in installments provided the license is for a period of more than three months. If he elects not to pay in full, he may pay in installments as follows:

(a) Where the license is for more than three months, but less than six months, the first installment payment will be for a three-months period, and the second installment payment for the remainder of the time of the license, each installment to be paid in advance.

(b) Where the license is for six months or more, the installment payments will be divided into two equal parts, each payable in full in advance.

Cir 1382

Upon receipt of a license issued by the proper Regional Grazier, you will at once notify the licensee that upon payment of the fees for not less than the first installment, the license will be delivered to him. Payment may be made in cash, by check, bank draft or post office money order.

Upon payment of the proper amount, you will issue your receipt therefor; forward the license to the licensee and at the same time notify the proper Regional Grazier that the fees have been paid. Such moneys shall be considered as earned when paid, and should be applied under the receipt title 6280, Receipts from Grazing Lands, act June 28, 1934 (48 Stat. 1269).

Payment of subsequent installments, if any, need not be reported to the Regional Grazier. Presentation of your receipt therefor by the licensee shall be sufficient evidence for him to permit the licensee to continue grazing the number of livestock mentioned in the license. However, failure of a licensee to pay such fees when due must be reported to the proper Regional Grazier.

All other matters pertaining to the granting and disposition of licenses shall be governed by circular No. 1356 of June 7, 1935.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

I concur

(Sgd) F. R. Carpenter

Director of Grazing.

Approved: March 28, 1936.

(Sgd) T. A. Walters,

First Assistant Secretary.

Part 191
43 CFR.

Superseded by Circ. 1623 which was superseded by Circ. 1781

30304

Circular 1383 a.

DISPOSITION OF FILING FEES ACCOMPANYING APPLICATIONS FOR LEASES, PERMITS AND OTHER RIGHTS UNDER THE MINERAL LEASING ACTS.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 13, 1938.

1. When filing fees will be applied as earned or returned to applicant. Fees paid with applications for leases, permits or other rights under the mineral leasing act of February 25, 1920 (41 Stat. 437), under the amendment thereof as to sodium dated December 11, 1928 (45 Stat. 1019), under the potash leasing act of February 7, 1927 (44 Stat. 1057), or under the sulphur leasing act of April 17, 1926 (44 Stat. 301), shall be applied as earned by the Register immediately upon receipt of notice from the General Land Office that the application has been adjudicated and the lands found subject to lease, permit or other right. Pending such notification, or notice of the final disposition of an application, the Register will hold the fee as "deposits, unearned proceeds, lands, etc."

Fees paid in connection with applications for coal leases, permits or licenses which are rejected will not be returned in any event unless and until authorized by the General Land Office upon receipt of a report from the Division of Investigations, or the applicant has furnished an affidavit stating that he has not mined any coal from the land embraced in the rejected application for which payment has not been made.

2. Regulations superseded. These regulations supersede the regulations contained in Circular No. 1383, approved April 14, 1936 (55 I. D. 483), effective August 1, 1938.

(Sgd) Fred W. Johnson,

Commissioner.

Approved: July 13, 1938.

(Sgd) Harold L. Ickes,

Secretary of the Interior.

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U. S. LA[illegible]D OFFICE 25502
BILLINGS, MONTANA
Date ~~JUN 3 1938~~ JUN 3 1938
Hour

Circular 1384a

DISPOSITION OF CONFLICTING APPLICATIONS UNDER SECTIONS 8(b), 14 AND 15 OF THE TAYLOR GRAZING ACT

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Part 101.8
+ 101.9

Still in effect
5/26/54 BB

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 25, 1938.

1. Allowance of applications discretionary with the Secretary of the Interior. The exchange of privately-owned lands under Section 8(b) of the Taylor Grazing Act approved June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), the ordering of public sales under Section 14 of the act, and the issuance of leases under Section 15 thereof are within the discretionary power of the Secretary of the Interior. In adjudicating such applications, the General Land Office will give consideration to all rights and interests and to all attendant circumstances.

2. Action by the register on conflicting applications. The register will not reject an application of the classes mentioned in the preceding paragraph solely for conflict with a prior application of such classes, but will suspend it and will attach to the original and each copy a memorandum stating the facts as to the conflict. The register will forward the original and copies of such applications as directed by the governing regulations.

3. Regulations superseded and supplemented. These regulations supersede the regulations contained in Circular No. 1384 dated April 15, 1936, and supplement the regulations in Circulars Nos. 684, 1401 (revised), and 1408 dated November 23, 1934, April 30, 1937, and September 3, 1936, respectively.

(Sgd) Fred W. Johnson,

Commissioner.

Approved: May 25, 1938.

(Sgd) Oscar L. Chapman,

Assistant Secretary.

D—
B—

1384-A

KB

116322

Superseded -

Circular No. 1384. - See 1384a

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

April 15, 1936

Instructions as to conflicting applications under sections 8, 14 and 15 of the Taylor Grazing Act.

Registers,

United States Land Offices.

Sirs:

The ordering of public sales under section 14 of the Taylor Grazing Act approved June 28, 1934 (48 Stat. 1269), and the granting of leases under section 15 of the act are within the discretionary power of the Secretary of the Interior; whereas the granting of exchanges under section 8 of said act, is mandatory on the part of the Secretary, if and when he finds such exchanges in the public interests. It follows that in adjudicating conflicting applications under these three sections of the act, it will be necessary for this office to give consideration to all rights and interests and to all attendant circumstances, including the date of filing.

In the future, you will not reject an application filed under any of the above-mentioned sections solely for conflict with a prior application under any one of said sections, but will suspend such an application and transmit same to this office, calling particular attention to the conflict.

In all other respects, the instructions contained in Circulars 684, 1346 and 1375 remain in full force and effect and you will continue to fully comply therewith as to all applications filed under the above-mentioned sections of the act.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: April 15, 1936.

(Sgd) T. A. Walters,

First Assistant Secretary.

Office Copy

UNITED STATES
DEPARTMENT OF THE INTERIOR

General Land Office

Circular No. 1386

REGULATIONS
CONCERNING
OIL AND GAS PERMITS AND LEASES AND RIGHTS OF WAY FOR PIPE LINES

Under Sections 13, 14, 17, and 28 of the Act of February 25, 1920 (41 Stat., 437) as amended by the Act of August 21, 1935 (49 Stat., 674)

✦

APPROVED MAY 7, 1936

See Cir 1840, 1863 for O & G permits
Cir 1825 for R/W's.

amended by Cir. 1457, 1464, 1466, 1557

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1936

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Applications for oil and gas leases filed pursuant to section 10 of Circular 1386 must be accompanied by proper filing fees. A minimum fee of $10.00 is charged for applications embracing not more than 800 acres, and an additional fee of $2.00 for each 160 acres or fraction thereof over 800 acres, the maximum fee being $32.00.

Circular No. 1386

Regulations Under Sections 13, 14, 17, and 28 of the Act of February 25, 1920, as Amended by the Act of August 21, 1935

UNITED STATES DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 7, 1936.

REGISTERS,
U. S. Land Offices.

SIRS: By the act approved August 21, 1935 (49 Stat. 674), sections 13, 14, 17, and 28 of the leasing act of February 25, 1920 (41 Stat. 437), were amended. A copy of the act is appended hereto.

This act changes materially the system of disposing of the oil and gas resources on the public domain in the United States and Alaska, chiefly, by providing for the issuance of leases instead of prospecting permits for unproven oil and gas lands.

In general, the amended act authorizes and directs the Secretary of the Interior to issue oil and gas prospecting permits on applications filed 90 days or more prior to its approval. Applications for prospecting permits filed after 90 days prior to the date of the act shall be considered as applications for leases. All lands subject to disposition under the leasing act which are known or believed to contain oil and gas deposits may be leased in units of not exceeding 640 acres to the highest responsible qualified bidder by competitive bidding under general regulations, except that the first qualified applicant for lease of lands not within a known geologic structure of a producing oil or gas field and applicants for permits whose applications were filed after 90 days prior to the date of the act are entitled to preference rights over others to lease such lands without competitive bidding. Rights to leases in case of a discovery under existing permits and permits which may issue under the pending applications are not changed or affected. The holder of any permit in good standing may at any time prior to termination thereof exchange said permit for a lease without proof of discovery. Leases for terms of 5 and 10 years and so long thereafter as oil or gas is produced in paying quantities are authorized at a royalty of not less than 12½ per centum of the amount of production and an annual rental charge of not less than 25 cents per acre. Rights-of-way granted under section 28 shall be upon the additional condition that the grantee accept, convey, transport, or purchase without discrimination oil or natural gas produced from Government lands in the vicinity of the pipe line.

The following rules and regulations are prescribed for the administration of the amended sections of the act, existing oil and gas regulations to continue in force except as modified by the amendatory act and by these regulations:

PROSPECTING PERMITS

Revoked by Circ. 1552

1. *Applications for permits.*—Prospecting permits are authorized by section 13 as amended only in cases where the applications were filed 90 days or more prior to the date of the amendatory act. Accordingly, the pending applications for permits filed on or prior to May 23, 1935, will be considered, and where found allowable permits will be granted for periods of 2 years, but in no case beyond December 31, 1938, except that in Alaska permits will be granted for the full 4-year periods. Applications for permits filed after May 23, 1935, and prior to August 21, 1935, will be considered as applications for leases pursuant to the last two provisos to section 13 of the amendatory act of August 21, 1935. Any applications for permits filed on or after August 21, 1935, will be considered as regular applications for leases under section 17, as amended.

2. *Extension of permits.*—Outstanding permits heretofore extended by the Secretary of the Interior and which are not subject to cancelation for violation of the law or operating regulations are extended by the act to December 31, 1937, subject to the applicable conditions of such prior extensions, and such permits may be further extended by the Secretary of the Interior for an additional period of not exceeding 1 year.

Permits which have not been extended or which may be issued under the pending applications may be extended by the Secretary of the Interior for not exceeding 2 years, but not beyond December 31, 1938, where he shall find that the permittee has been unable, with the exercise of diligence, to test the lands in the time granted by the permit, the extensions to be upon such conditions as the Secretary may prescribe.

No extension of any permit may be made beyond December 31, 1938.

Any applications for extension of time should contain full and definite information regarding work done in compliance with the terms of the permit and money expended for developing the permit area and for reliable geological surveys of the lands involved. The showing must be by affidavit and state in detail the amounts and dates of such expenditures, purposes for which made, to whom the payments were made, and if the permittee has secured a geological survey of the land, copies of the reports and maps thereof should be filed. Any other facts which the permittee believes will show equities in support of his application should be included in the showing.

See Circ. 1552 — Revoked by Circ. 1552

3. *Reward for discovery.*—Upon discovery of valuable deposits of oil or gas within the permit area during the life of the permit, the permittee will be entitled to lease the lands under the original provisions of section 14 (see circular 1094, 51 L. D. 597), no change being made in such rights by the amendatory act, except that in case a permit is issued upon any structure after discovery based upon an application filed prior to discovery the royalty to be paid under the preferential or earned lease shall be 10 per centum instead of 5 per centum in amount or value of the production. Applications for leases based on discovery should conform to the instructions of October 1, 1926, circular 823 (51 L. D. 600).

4. *Exchange of permits for leases.*—Any person holding a prospecting permit not subject to cancelation for violation of the law or operating regulations, and otherwise in good standing, has the right, prior to the termination of the permit, to exchange the same for a lease to the area described therein, without proof of discovery, at a royalty rate of not less than 12½ per centum of the amount or value of the production, such lease not to be subject to the acreage limitation of the law until 1 year after the discovery of oil or gas thereon, or to payment of rental within the first 2 lease years, unless valuable deposits of oil or gas are sooner discovered within the boundaries of the lease.

If the permits are in good standing, applications for such exchanges may be made at any time by the parties in interest, as shown by the records of the Land Department. No formal application will be required, but such application should be addressed to the Secretary of the Interior, and filed with the Register or the Commissioner of the General Land Office. If the Secretary of the Interior approves the exchange, lease forms will be transmitted to the permittee who will be allowed 30 days to execute and file the lease, and furnish such bond as may be required.

See Circ 1552

OIL AND GAS LEASES

5. *Designation and offer of lands for lease.*—Pursuant to the provisions of section 17 of the act, as amended, the unappropriated lands and deposits subject to disposition under the act will be divided into leasing blocks or tracts in units of not exceeding 640 acres each, which shall be as nearly compact in form as possible, and offered for lease at a stated royalty and rental by competitive bidding to the highest responsible qualified bidder.

6. *Notice of lease offer.*—Notice of the offer of lands for lease will be given by publication for a period of 30 days in a newspaper of general circulation to be designated by the Commissioner of the General Land Office in the county in which the lands or deposits are situated, or in such other paper or papers as the Secretary of the Interior may direct. Such notice will set the day and hour on which the offer will be made at public auction at the United States land office of the district in which the lands are situated, or at such other place as may be fixed in the notice, to the qualified bidder offering the highest bonus (not less than the minimum bonus fixed in the notice) for the lease at the stated rental and royalty. Copy of the notice will be posted in the district land office during the period of publication. This notice will be published at the expense of the Government. All bidders at any such auction are warned against violation of the provisions of section 59 of the United States Criminal Code, approved March 4, 1909, prohibiting unlawful combination or intimidation of bidders.

7. *Auction of lease.*—At the time fixed in the notice the register will, by public auction, offer the land for lease on the terms and conditions fixed in the notice to the qualified bidder of the highest amount offered as a bonus for the privilege of leasing the land. The successful bidder must deposit with the register on the day of sale certified check on a solvent bank, or cash, for one-fifth of the amount

See Circ 1552

See Circ 1552

bid by him, which payment the register will credit to "Trust funds—Unearned moneys." At the time of such payment the successful bidder will also file the requisite showing of his qualifications to receive a lease, which should include the following:

(*a*) Proof of citizenship: By affidavit of such fact if native born or, if naturalized, affidavit stating date of naturalization, court in which naturalized and number of certificate, if known; if a corporation, by certified copy of the articles of incorporation and a showing as to the residence and citizenship of its stockholders.

(*b*) The affidavit of the bidder or the affidavit of one of the officers of a corporate bidder, stating in full the interests, direct or indirect, held in permits and leases, and applications therefor, in the same State, identifying the records wherein such interests may be found.

The register will thereupon transmit such showing, together with a report of the proceedings had at the auction by a special letter to the Commissioner of the General Land Office.

8. *Award of lease.*—Upon receipt of the report of the auction from the register, the Secretary of the Interior will take action thereon and either award the lease to the successful bidder or reject same, notice of which will be forthwith transmitted to the bidder through the local office. If the lease shall be awarded, the notice will be accompanied by copies of the lease for execution by the lessee who shall within 30 days from receipt of such notice, execute said lease in triplicate, and pay to the register the balance of the bonus bid by him, together with the first required rental, and also cause to be filed any bond required in connection with the lease. If the bid be rejected the register will return by his official check the deposit made at the auction. In case of the award of a lease and failure on the part of the bidder to execute same and otherwise comply with the applicable regulations, the deposit will be considered forfeited and disposed of as other receipts under this act.

If two or more units are awarded to any bidder such units, not exceeding in area the maximum allowed by law, may be included in a single lease if circumstances warrant.

LEASES WITHOUT COMPETITIVE BIDDING

See Circ 1552

9. *Preference right to lease.*—A preference right over others to a lease without competitive bidding is granted under section 17, as amended, to—

(*a*) The person first making application for the lease of any lands not within any known geologic structure of a producing oil or gas field who is qualified to hold a lease under the act.

(*b*) Applicants for permits whose applications were filed after 90 days prior to the effective date of the amendatory act.

10. *Applications for leases.*—Applications for leases of lands not within the known geologic structure of a producing oil or gas field may be filed in the proper district land office, or in States in which there is no district land office, in the General Land Office, addressed to the Commissioner of the General Land Office. Such applications when filed will be promptly noted of record, the date and exact hour of filing noted thereon, and where filed in the district land office, promptly forwarded to the General Land Office with a report

as to the status and conflicts. No specific form of application is required and no blanks will be furnished, but such application must be under oath of the applicant, or if sworn to by his attorney in fact, the power of attorney and the applicant's own affidavit as to his citizenship and holdings must be attached thereto.

The application must cover in substance the following points:

See Circ 1552

(*a*) The applicant's name and address.

(*b*) Statement as to citizenship: In case of an individual, whether native born or naturalized and, if naturalized, date of naturalization, court in which naturalized, and number of certificate if known; if a corporation, by certified copy of the articles of incorporation and a showing as to residence and citizenship of the stockholders.

(*c*) A statement of the interests, direct and indirect, held by the applicant in permits and leases, and applications therefor, in the same State, identifying the records wherein such interests may be found.

(*d*) Description of the lands for which a lease is desired, which may not exceed 2,560 acres as nearly compact in form as possible and should involve only one geologic structure, describing the lands by legal subdivisions if surveyed or, if not surveyed, by the approximate subdivisions and metes and bounds description connected with a corner of the public surveys by courses and distances.

(*e*) A statement that to the best of applicant's knowledge and belief the lands applied for are not within the known geologic structure of any producing oil or gas field and are believed to contain oil and gas.

(*f*) The names and addresses of three references as to the applicant's reputation and business standing.

(*g*) A statement that the applicant is ready to pay in advance the annual rental under the lease, and to furnish such bond or bonds as may be required under the lease or regulations.

Payment of a bonus for leases made without competitive bidding will not be required for the present.

Revoked by Circ 1552

11. *Leases based on permit applications.*—Applications for permits filed after May 23, 1935, are considered as applications for leases under section 17 of the amended act. Such leases are subject to the acreage limitations of section 27 of the act and, if otherwise regular, will be issued without bonus requirement at the royalty rate provided in section 17 hereof and at a rental as provided in section 15 hereof.

12. *Conflicting applications for leases.*—Should more than one application for lease of the same lands be filed, the applications will be considered in the order filed and a lease granted to the qualified applicant first in point of time in filing application. If two or more applications are filed simultaneously, the right to lease will be determined pursuant to existing regulations governing simultaneous filings of applications for oil and gas prospecting permits. (See circular 1320, 54 I. D. 400.)

13. *Form of lease.*—The lease referred to in the preceding sections will be in form and substance substantially as follows:

Department of the Interior,
General Land Office.

Serial ——

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LEASE OF OIL AND GAS LANDS UNDER THE ACT OF FEBRUARY 25, 1920, AS AMENDED

This indenture of lease, entered into, in triplicate, as of the ________ day of __________________, by and between the United States of America, party of the first part, hereinafter called the lessor, by the Secretary of the Interior, and __________________, party of the second part, hereinafter called the lessee, under, pursuant, and subject to the terms and provisions of the act of Congress approved February 25, 1920 (41 Stat. 437), entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", as amended, hereinafter referred to as the act, which is made a part hereof, witnesseth:

Sec. 1. *Rights of lessee.*—That the lessor in consideration of rents and royalties to be paid, and the conditions and covenants to be observed as herein set forth, does hereby grant and lease to the lessee the exclusive right and privilege to drill for, mine, extract, remove, and dispose of all the oil and gas deposits in or under the following-described tracts of land situated in the __________________ field __________________ and more particularly described as follows: __________________ containing __________ acres, more or less, together with the right to construct and maintain thereupon all works, buildings, plants, waterways, roads, telegraph or telephone lines, pipe lines, reservoirs, tanks, pumping stations, or other structures necessary to the full enjoyment thereof, for a period of __________ years, and so long thereafter as oil or gas is produced in paying quantities.

Sec. 2. In consideration of the foregoing, the lessee hereby agrees:

(*a*) *Bond.*—To furnish prior to beginning of drilling operations and maintain at all times thereafter as required by the lessor a bond in the penal sum of $5,000 with approved corporate surety, or with deposit of United States bonds as surety therefor, conditioned upon compliance with the terms of this lease; and, until such bond is furnished, to submit and maintain a bond in the sum of $1,000 with acceptable surety, similarly conditioned.

(*b*) Within 30 days of demand, to subscribe to and to operate under such reasonable cooperative or unit plan for the development and operation of the area, field, or pool embracing the lands included herein as the Secretary of the Interior may determine to be practicable and necessary or advisable, which plan shall adequately protect the rights of all parties in interest, including the United States.

(*c*) *Wells.*—(1) To drill and produce all wells necessary to protect the leased land from drainage by wells on lands not the property of the lessor or lands of the United States leased at a lower royalty rate, or in lieu of any part of such drilling and production, with the consent of the Secretary of the Interior, to compensate the lessor in full each month for the estimated loss of royalty through drainage in the amount determined under instructions of said Secretary; (2) at the election of the lessee, to drill and produce other wells in conformity with any system of well spacing or production allotments affecting the field or area in which the leased lands are situated, provided such system is authorized and sanctioned by applicable law or by the Secretary of the Interior; and (3) promptly after due notice in writing, to drill and produce such other wells as the Secretary of the Interior may require to insure reasonable diligence in the development and operation of the property.

(*d*) *Rentals.*—To pay the lessor in advance for each acre or fraction thereof, a rental of 50 cents for the first lease year beginning on the first day of the month in which the lease issues, and a rental of 25 cents for each subsequent lease year beginning prior to discovery of a valuable deposit of oil or gas within the limits of the geologic structure on which all or part of the leased lands are situated, and $1 for each lease year beginning on or after such discovery, the rental so paid for any one lease year to be credited on the royalty for that year: *Provided*, That if this lease is granted in exchange for an oil and gas prospecting permit or pursuant to an application for a prospecting permit filed after May 23, 1935, no rental shall be payable for the first two lease years unless valuable deposits of oil or gas are sooner discovered within the boundaries of the lease, but a rental of $1 shall be payable, as above provided, for each lease year beginning on or after such discovery: *And provided further*, That when the Secretary of the Interior shall direct or shall assent to suspension of operations or of production of oil or gas under this lease, after a valuable deposit of oil or gas shall have been discovered within the lands leased, any payment of acreage rental prescribed herein likewise shall be suspended during such period of suspension of all operations and production; and this lease shall not be deemed to expire by reason of suspension of prospecting, drilling, or production, pursuant to any order or consent of the said Secretary.

(e) *Royalties.*—To pay the lessor royalties, as follows, on the amount or value of all production from the leased lands (except that portion thereof used for production purposes on said lands or unavoidably lost):

(1) When the price of oil used in computing royalty value is $1 or more per barrel, the per centum of royalty shall be as follows:

When the average production for the calendar month in barrels per well per day is—

Not over 50, the royalty shall be 12.5 percent.
Over 50 but not over 60, the royalty shall be 13 percent.
Over 60 but not over 70, the royalty shall be 14 percent.
Over 70 but not over 80, the royalty shall be 15 percent.
Over 80 but not over 90, the royalty shall be 16 percent.
Over 90 but not over 110, the royalty shall be 17 percent.
Over 110 but not over 130, the royalty shall be 18 percent.
Over 130 but not over 150, the royalty shall be 19 percent.
Over 150 but not over 200, the royalty shall be 20 percent.
Over 200 but not over 250, the royalty shall be 21 percent.
Over 250 but not over 300, the royalty shall be 22 percent.
Over 300 but not over 350, the royalty shall be 23 percent.
Over 350 but not over 400, the royalty shall be 24 percent.
Over 400 but not over 450, the royalty shall be 25 percent.
Over 450 but not over 500, the royalty shall be 26 percent.
Over 500 but not over 750, the royalty shall be 27 percent.
Over 750 but not over 1,000, the royalty shall be 28 percent.
Over 1,000 but not over 1,250, the royalty shall be 29 percent.
Over 1,250 but not over 1,500, the royalty shall be 30 percent.
Over 1,500 but not over 2,000, the royalty shall be 31 percent.
Over 2,000 the royalty shall be 32 percent.

(2) When the price of oil used in computing royalty value is less than $1 per barrel, the per centum of royalty shall be the foregoing multiplied by the ratio of said price to a price of $1 per barrel: *Provided, however,* That the per centum of royalty shall never be less than 12.5.

(3) If the United States shall take its royalty in oil, the price received by the lessee, as well as that received by the lessor, shall be considered in determining the price to govern the percentum of royalty, unless both prices are $1 or more per barrel.

(4) On gas, including inflammable gas, helium, carbon dioxide, and all other natural gases and mixtures thereof, and on natural or casing-head gasoline and other liquid products obtained from gas:

When the average production of gas per well per day for the calendar month does not exceed 5,000,000 cubic feet, 12½ percent; and when said production of gas exceeds 5,000,000 cubic feet, 16⅔ percent of the amount or value of the gas and liquid products produced, said amount or value of such liquid products to be net after an allowance for the cost of manufacture: *Provided,* That the allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only on approval by the Secretary of the Interior, and that said value of gas and of liquid products shall be as determined by said Secretary.

The average production per well per day for oil and for gas shall be determined under rules and regulations approved by the Secretary of the Interior.

(5) It is expressly agreed that the Secretary of the Interior may establish reasonable minimum prices for purposes of computing royalty in value on any or all oil, gas, natural gasoline, and other liquid products obtained from gas; and that in no case shall the price so established be less than the estimated reasonable value of the product, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters.

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(6) When paid in value, such royalties on production shall be due and payable monthly on the last day of the calendar month next following the calendar month in which produced. When paid in amount of production, such royalty products shall be delivered in merchantable condition on the premises where produced without cost to lessor, unless otherwise agreed to by the parties hereto, at such times, and in such tanks provided by the lessee as reasonably may be required by the lessor: *Provided*, That the lessee shall not be required to hold such royalty oil or other liquid products in storage beyond the last day of the calendar month next following the calendar month in which produced: *And provided further*, That the lessee shall be in no manner responsible or held liable for the loss or destruction of royalty oil or other liquid products in storage from causes over which the lessee has no control.

(7) Royalties, whether in amount or value of production, shall be subject to reduction whenever the average daily production of the oil wells on the entire leasehold or on any tract or portion thereof segregated for royalty purposes shall not exceed ten (10) barrels per well per day, or where the cost of production of oil or gas is such as to render further production economically impracticable, if in the judgment of the Secretary of the Interior the wells cannot be successfully operated upon the royalties fixed herein.

(*f*) *Contracts for disposal of products.*—To file with the Federal oil and gas supervisor or such other officer as the Secretary of the Interior may designate, copies of all contracts immediately upon execution thereof, and full information as to all other arrangements for the disposal of oil, gas, natural gasoline, and other products, produced hereunder (except products used for production purposes on the leased lands or unavoidably lost), and not to sell or otherwise dispose of the products of the land leased except in accordance with a contract or other arrangement first approved by said officer, such approval to be subject to review by the Secretary of the Interior but to be effective unless and until revoked by said Secretary or his said subordinate.

(*g*) *Monthly statements.*—To furnish monthly statements in detail at such time and in such form as may be prescribed by the lessor, showing the amount, and quality of all oil, gas, natural gasoline, and other substances produced during the preceding calendar month and the amounts thereof used for production purposes on the leased lands or unavoidably lost, and to furnish current records and monthly statements of the amounts thereof sold or otherwise disposed of and the proceeds therefrom.

(*h*) *Payments.*—Unless otherwise directed by the Secretary of the Interior, to make rental, royalty, or other payments to the lessor to the order of the Commissioner, General Land Office, such payments to be tendered to the Federal oil and gas supervisor of the district in which the leased land is situated.

(*i*) *Inspection.*—To keep open at all reasonable times for the inspection of any duly authorized officer of the Department, the leased premises and all wells, improvements, machinery, and fixtures thereon or connected therewith and all books, accounts, maps, and records relative to operations and surveys or investigations on the leased lands or under the lease.

(*j*) *Plats and reports.*—To furnish at such times and in the manner and form prescribed by or on behalf of the lessor, a plat showing all development work and improvements on the leased lands, and other related information, with a report as to all buildings, structures, or other works placed in or upon said leased lands; and to report in detail when required as to the stock holders, investment, depreciation, and cost of operation, and the amount, nature, and quality of products sold, and the amount received therefor.

(k) *Well records.*—To keep a daily drilling record, a log and complete information on all well surveys in form acceptable to or prescribed by or on behalf of the lessor of all the wells drilled on the leased lands, and an acceptable record of all subsurface investigations affecting said lands, which log, information, and records, or copies thereof, shall be furnished to the lessor as requested or required.

(*l*) *Diligence—Prevention of waste—Health and safety of workmen.*—To exercise reasonable diligence in drilling and producing the wells herein provided for unless consent to suspend operations temporarily is granted by the Secretary of the Interior; to carry on all operations hereunder in a good and workmanlike manner, in accordance with approved methods and practice as provided in the operating regulations, having due regard for the prevention of waste of oil or gas developed or damage to deposits or formations containing oil, gas, or water, or to coal measures or other mineral deposits, for conservation of gas energy, for the preservation and conservation of the property for future productive operations, and for the health and safety of workmen and employees; to plug properly and effectively all wells before abandoning the same; not to drill any well within 200 feet of any of the outer boundaries of the lands covered hereby, unless the adjoining lands have been patented or the title thereto otherwise vested in private owners; to carry out at expense of the lessee all reasonable orders of the lessor relative to the matters in this paragraph, and that on failure of the lessee so to do the lessor shall have the right to enter on the property and to accomplish the purpose of such orders at the lessee's cost; *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond lessee's control.

(*m*) *Regulations.*—To abide by and conform to any and all reasonable regulations of the Secretary of the Interior now or hereafter in force, all of which regulations are made a part and condition of this lease: *Provided*, That such regulations are not inconsistent with any express and specific provisions hereof; and particularly that no regulations hereafter approved shall affect a change in the rate of royalty or annual rental herein specified without the written consent of the parties to this lease.

(*n*) *Taxes and wages—Freedom of purchase.*—To pay when due, all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, oil, and gas produced from the lands hereunder, or other rights, property, or assets of the lessee; to accord all workmen and employees complete freedom of purchase, and to pay all wages due workmen and employees at least twice each month in the lawful money of the United States.

(*o*) *Reserved deposits.*—To comply with all statutory requirements and regulations thereunder, if the lands embraced herein have been or shall hereafter be disposed of under the laws reserving to the United States the deposits of oil and gas therein, subject to such conditions as are or may hereafter be provided by the laws reserving such oil or gas.

(*p*) *Assignment of lease.*—Not to assign this lease or any interest therein by an operating agreement or otherwise, nor to sublet any portion of the leased premises, except with the consent in writing of the Secretary of the Interior first had and obtained.

(*q*) *Deliver premises in cases of forfeiture.*—To deliver up the premises leased, with all permanent improvements thereon, in good order and condition in case of forfeiture of this lease; but this shall not be construed to prevent the removal, alteration, or renewal of equipment and improvements in the ordinary course of operations.

(*r*) *Pipe lines to purchase or convey at reasonable rates and without discrimination.*—If owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil or gas derived from lands under this lease, to accept and convey and, if a purchaser of such products, to purchase at reasonable rates and without discrimination the oil or gas of the Government or of any citizen or company not the owner of any pipe line, operating a lease or purchasing or selling oil, gas, natural gasoline or other products under the provisions of the act.

SEC. 3. The lessor expressly reserves:

(*a*) *Rights reserved—Easements and rights-of-way.*—The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same or of other lands containing the deposits described in the act, and the treatment and shipment of products thereof by or under authority of the Government, its lessees or permittees, and for other public purposes.

(*b*) *Disposition of surface.*—The right to lease, sell, or otherwise dispose of the surface of the lands embraced within this lease under existing law or laws hereafter enacted, insofar as said surface is not necessary for the use of the lessee in the extraction and removal of the oil and gas therein: *Provided*, That this reservation shall not apply to any lands herein described, title to which has passed from the United States.

(*c*) *Monopoly and fair prices.*—Full power and authority to promulgate and enforce all orders necessary to insure the sale of the production of the leased lands to the United States and to the public at reasonable prices, to protect the interests of the United States, to prevent monopoly, and to safeguard the public welfare.

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(*d*) *Helium.*—Pursuant to section **1** of the act, and section **1** of the act of Congress approved March 3, 1927 (44 Stat. 1387), the lessor reserves the ownership and the right to extract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, helium from all gas produced under this lease, but the lessee shall not be required to extract and save the helium for the lessor; in case the lessor elects to take the helium the lessee shall deliver all gas containing same, or portion thereof desired, to the lessor at any point on the leased premises in the manner required by the lessor, for the extraction of the helium in such plant or reduction works for that purpose as the lessor may provide, whereupon the residue shall be returned to the lessee with no substantial delay in the delivery of gas produced from the well to the purchaser thereof: *Provided,* That the lessee shall not, as a result of the operation in this paragraph provided for, suffer a diminution of value of the gas from which the helium has been extracted, or loss otherwise, for which the lessee is not reasonably compensated, save for the value of the helium extracted; the lessor further reserves the right to erect, maintain, and operate any and all reduction works and other equipment necessary for the extraction of helium on the premises leased.

(*e*) *Taking of royalties.*—All rights pursuant to section 36 of the act to take royalties in amount or in value of production.

(*f*) *Casing.*—All rights pursuant to section 40 of the act, to purchase casing and lease or operate valuable water wells.

SEC. 4. *Drilling and producing restrictions.*—It is covenanted and agreed that the rate of prospecting and developing and the quantity and rate of production from the lands covered by this lease shall be subject to control in the public interest by the Secretary of the Interior, and in the exercise of his judgment the Secretary may take into consideration, among other things, Federal laws, State laws, and regulationns issued thereunder, or lawful agreements among operators regulating either drilling or production, or both.

SEC. 5. *Surrender and termination of lease.*—The lessee may, on consent of the Secretary of the Interior, first had and obtained in writing, surrender and terminate this lease upon payment of all rents, royalties, and other obligations due and payable to the lessor, and upon payment of all wages and moneys due and payable to the workmen employed by the lessee, and upon a satisfactory showing to the Secretary that the public interest will not be impaired; but in no case shall such termination be effective until the lessee shall have made full provision for conservation and protection of the property; upon like consent had and obtained the lessee may surrender any legal subdivisions of the area included herein.

SEC. 6. *Purchase of materials, etc., on termination of lease.*—Upon the expiration of this lease, or the earlier termination thereof pursuant to the last preceding section, the lessor or another lessee may, if the lessor shall so elect within 3 months from the termination of the lease purchase all materials, tools, machinery, appliances, structures, and equipment placed in or upon the land by the lessee, and in use thereon as a necessary or useful part of an operating or producing plant, on the payment to the lessee of such sum as may be fixed as a reasonable price therefor by a board of three appraisers, one of whom shall be chosen by the lessor, one by the lessee, and the other by the two so chosen; pending such election all equipment shall remain in normal position. If the lessor, or another lessee, shall not within 3 months, elect to purchase all or any part of such material, tools, machinery, appliances, structures, and equipment, the lessee shall have the right at any time, within a period of 90 days, to remove from the premises all the materials, tools, machinery, appliances, structures, and equipment which the lessor shall not have elected to purchase, save and except casing in wells and other equipment or apparatus necessary for the preservation of the well or wells. Any materials, tools, machinery, appliances, structures, and equipment including casing in or out of wells on the leased lands shall become the property of the lessor on expiration of the period of 90 days above referred to or such extension thereof as may be granted on account of adverse climatic conditions throughout said period.

SEC. 7. *Proceedings in case of default.*—If the lessee shall fail to comply with the provisions of the act, or make default in the performance or observance of any of the terms, covenants, and stipulations hereof and such default shall continue for a period of 30 days after service of written notice thereof by the lessor, the lease may be canceled by the Secretary of the Interior in accordance with section 17 of the act, as amended, and all materials, tools,

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machinery, appliances, structures, equipment, and wells shall thereupon become the property of the lessor, except that if said lease was earned as a preference right pursuant to section 14 of the act or covers lands known to contain valuable deposits of oil or gas, the lease may be canceled only by judicial proceedings in the manner provided in section 31 of the act; but this provision shall not be construed to prevent the exercise by the lessor of any legal or equitable remedy which the lessor might otherwise have. A waiver of any particular cause of forfeiture shall not prevent the cancelation and forfeiture of this lease for any other cause of forfeiture, or for the same cause occurring at any other time.

SEC. 8. *Heirs and successors in interest.*—It is further covenanted and agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

SEC. 9. *Unlawful interest.*—It is also further agreed that no Member of, or Delegate to Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of section 3741 of the Revised Statutes of the United States, and sections 114, 115, and 116 of the Codification of the Penal Laws of the United States approved March 4, 1919 (35 Stat. 1109), relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

In witness whereof—

THE UNITED STATES OF AMERICA,
By ------------------------------
Secretary of the Interior.

Witness to signature of—

----

14. *Bonds.*—All leases under the amended act provide that a general lease bond in the penal sum of not less than $5,000 conditioned upon compliance with all lease terms, shall be furnished prior to the beginning of drilling operations on leased land. Such bonds in every instance shall be either corporate-surety bonds or individual bonds accompanied, in the latter instance, by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the conditions of the lease bond.

Until a general lease bond is filed a lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 for compliance with the lease obligations, and for the protection of the owner of surface or subsurface rights or estates from damage resulting from the operations of such lessee, such bond to terminate upon acceptance of the $5,000 lease bond. This and other special-purpose bonds involving penal sums less than $5,000 may be furnished (*a*) with approved corporate-surety, (*b*) with two qualified individual sureties when duly supported by affidavits of justification by such sureties and by a certificate as to their identity, signatures, and financial competency, or (*c*) without surety, upon deposit of acceptable collateral as indicated above.

Bonds required under this section should be in substantially the following form:

Department of the Interior,
General Land Office.

U. S. Land Office ——
Serial No. ——

BOND OF OIL AND GAS LESSEE

(Act of Feb. 25, 1920 (41 Stat. 437))

Know all men by these presents, that we, --------------------, of the county of --------------------, in the State of --------------------, as principal, and ------------------, of the county of ---------------------, in the State of ---------------------, as surety, are held and firmly bound unto the United States of America in the sum of ------------------------- dollars, lawful money of the United States, for the use and benefit of the United States and of any entryman or patentee of any portion of the land covered by the hereinafter described lease heretofore entered or patented with a reservation of the oil and gas deposits to the United States, and any lessee under lease heretofore issued by the United States of other mineral deposits in any portion of such land, to be paid to the United States, for which payment, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

Signed with our hands and sealed with our seals this ---------- day of --------------------, in the year of our Lord one thousand nine hundred and --------------------.

The condition of the foregoing obligation is such that --------------------.

Whereas the said principal, by instrument dated --------------------, has been granted an exclusive right to drill for, mine, extract, remove, and dispose of all the oil and gas deposits in or under the following-described lands ----------------------, under and pursuant to the provisions of the act approved February 25, 1920 (41 Stat. 437), as amended; and

Whereas the said principal has by such instrument entered into certain covenants and agreements set forth therein, under which operations are to be conducted:

Now, therefore, if said principal shall faithfully comply with all the provisions of the above described lease, then the above obligation is to be void and of no effect, otherwise to remain in full force and virtue.

Signed, sealed, and delivered in presence of—

Name and address of witness:

--------------------------------------,	------------------------- [L. S.]
	Principal

--------------------------------------,	------------------------- [L. S.]
	Surety

Where United States bonds are submitted in lieu of surety the same form may be used (with the omission of the recitals as to sureties) with the additional provision substantially as follows:

The above-bounden obligor, in order more fully to secure the United States in the payment of the aforesaid sum, hereby pledges as security therefor bonds of the United States of a par value equal to said sum, which said bonds are numbered serially and are in the denominations and amounts and are otherwise more particularly described as follows: --------------------, bonds of $---------------- bearing ---------- percent interest with ---------- coupons attached to each, numbered ----------, which said bonds have this day been deposited with the Secretary of the Interior and his receipt taken therefor.

That the said obligor does hereby constitute and appoint the Secretary of the Interior as his atorney, for him and in his name to collect or to sell, assign and transfer the said United States bonds above described and deposited by the obligor as aforesaid, pursuant to authority conferred by section 1126 of the act of February 26, 1926 (44 Stat. 122), as security for the faithful performance of any and all of the conditions or stipulations as hereinbefore set out, and it is agreed that, in case of any default in the performance of the conditions and stipulations of such undertaking the said attorney shall have full power to collect said bonds or any part thereof, or to sell, assign, and transfer said bonds or any part thereof without notice, at public or private sale, free from any equity of redemption or without appraisement or valuation, notice and right to redeem being waived, and to apply proceeds of such sale or collection to the full amount of the bond to the satisfaction of any damages, or deficiencies arising by reason of such default, as said attorney may deem best. The interest accruing upon said United States bonds deposited as above stated, in the absence of any default in the performance of any of the conditions or stipulations of the bond, shall be paid to said obligor. The said obligor hereby for himself, his heirs, executors, administrators, successors, and assigns ratifies and confirms whatever his said attorney shall do by virtue of these presents.

In witness whereof I have hereunto set my hand and seal this ________ day of __________________, 19___

__________________________ [L. S.]
(Signature)

Before me, the undersigned, a notary public within and for the county of ___________________, in the State of ___________________, personally appeared ______________________________ and duly acknowledged the execution of the foregoing bond and power of attorney.

Witness my hand and notarial seal this _________ day of ________________, 19___

[NOTARIAL SEAL] ______________________________

15. *Rentals.*—A lessee shall pay an annual rental of 50 cents per acre or fraction thereof for the first year of the lease, and shall pay an annual rental of 25 cents per acre or fraction thereof for the second and each succeeding lease year until oil or gas in commercial quantities is discovered on the leased lands. Thereafter, beginning with the first lease year succeeding discovery, the annual rental shall be $1 per acre or fraction thereof, any rental paid for any one year to be credited against the royalties as they accrue for that year. For the purposes of making rental payments the lease year shall in all instances be deemed to start on the first day of the month in which the lease was issued. In all instances rental shall be paid in advance, the first payment being due prior to the execution and delivery of the lease: Except, That where a lease is granted in exchange for an existing permit or pursuant to an application for permit filed after May 23, 1935, and before August 21, 1935, no rental is required for the first two lease years, unless valuable deposits of oil or gas are sooner discovered within the boundaries of the lease.

16. *Suspension of rentals.*—Rentals under any leases issued pursuant to the provisions of the amendatory act, except as otherwise expressly provided in these regulations, may not be waived, suspended, or reduced until a valuable deposit of oil or gas is discovered within the lease area. In any lease on which discovery has been made, the Secretary of the Interior may direct or assent to the suspension of operations or of production of oil or gas, and no payment of rentals under the lease so suspended will be required during the period of suspension of all operations and production. Such suspension of payment of rentals, if so directed or assented to, shall be applied pro rata, by months, for lease years or portions thereof and shall begin with the first day of the lease month after the filing in the office of the oil and gas supervisor of written application

for suspension, or after actual cessation of operations if that be later, and end with the first day of the lease month in which the relief is terminated.

17. *Royalties.*—Royalties, as follows, shall be paid on the amount or value of all production from the leased lands (except that portion thereof used for production purposes on said lands or unavoidably lost):

(1) When the price of oil used in computing royalty value is $1 or more per barrel, the per centum of royalty shall be as follows:

When the average production for the calendar month in barrels per well per day is—

Not over 50, the royalty shall be 12.5 percent.
Over 50 but not over 60, the royalty shall be 13 percent.
Over 60 but not over 70, the royalty shall be 14 percent.
Over 70 but not over 80, the royalty shall be 15 percent.
Over 80 but not over 90, the royalty shall be 16 percent.
Over 90 but not over 110, the royalty shall be 17 percent.
Over 110 but not over 130, the royalty shall be 18 percent.
Over 130 but not over 150, the royalty shall be 19 percent.
Over 150 but not over 200, the royalty shall be 20 percent.
Over 200 but not over 250, the royalty shall be 21 percent.
Over 250 but not over 300, the royalty shall be 22 percent.
Over 300 but not over 350, the royalty shall be 23 percent.
Over 350 but not over 400, the royalty shall be 24 percent.
Over 400 but not over 450, the royalty shall be 25 percent.
Over 450 but not over 500, the royalty shall be 26 percent.
Over 500 but not over 750, the royalty shall be 27 percent.
Over 750 but not over 1,000, the royalty shall be 28 percent.
Over 1,000 but not over 1,250, the royalty shall be 29 percent.
Over 1,250 but not over 1,500, the royalty shall be 30 percent.
Over 1,500 but not over 2,000, the royalty shall be 31 percent.
Over 2,000 the royalty shall be 32 percent.

(2) When the price of oil used in computing royalty value is less than $1 per barrel, the per centum of royalty shall be the foregoing multiplied by the ratio of said price to a price of $1 per barrel: *Provided, however*, That the per centum of royalty shall never be less than 12.5.

(3) If the United States shall take its royalty in oil, the price received by the lessee, as well as that received by the lessor, shall be considered in determining the price to govern the per centum of royalty, unless both prices are $1 or more per barrel.

(4) On gas, including inflammable gas, helium, carbon dioxide, and all other natural gases and mixtures thereof, and on natural or casing-head gasoline and other liquid products obtained from gas:

When the average production of gas per well per day for the calendar month does not exceed 5,000,000 cubic feet, 12½ percent; and when said production of gas exceeds 5,000,000 cubic feet, 16⅔ percent of the amount or value of the gas and liquid products produced, said amount or value of the gas and liquid products to be net after an allowance for the cost of manufacture; *Provided*, That the allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only on approval by the Secretary of the Interior, and that said value of gas and of liquid products shall be as determined by said Secretary.

The average production per well per day for oil and for gas shall be determined under rules and regulations approved by the Secretary of the Interior.

18. *Reduction of royalties.*—Where the average daily production of the oil wells on an entire leasehold or on any tract or portion thereof segregated for royalty purposes does not exceed 10 barrels per well per day or where the cost of operation renders production economically impracticable, the Secretary of the Interior may reduce the royalty on future production when in his judgment the wells cannot be successfully operated upon the royalty fixed in the lease.

Applications for the reduction of royalties should be made in accordance with the instructions of June 28, 1927 (circular 1127, 52 L. D. 175).

Applications for the waiver, suspension, or reduction of rentals, and reduction of royalties under leases valuable only for the production of gas, should be filed in the same manner and with substantially the same showing as that provided by said instructions.

19. *Drainage.*—Upon determination that wells drilled upon lands ~~not owned by the United States are draining oil or gas from lands or deposits owned in whole or in part by the United States, the Secretary of the Interior may negotiate agreements whereby the United States or the United States and its permittees, lessees or grantees shall be compensated for such drainage, such agreements to be made with the consent of any permittees and lessees affected thereby.~~

~~Steps looking to the negotiation of such special agreements may be initiated in the Department or by application of interested parties. The precise nature of any agreement negotiated will depend on all the conditions and circumstances involved in the particular case.~~

Amended by Circ. 1252

20. *Exchanges of leases.*—Application for exchange of leases under section 2 (a) of the amendatory act may be filed with the register of the district land office or directly with the Commissioner of the General Land Office. Such application should be made by the record titleholder of the outstanding lease and joined in or consented to by any operator of record. Any lease issued in lieu of the outstanding lease will be issued to the record title holder or holders of the outstanding lease, bear current date, and at the royalties and rentals provided by these regulations and will be issued for a period of 10 years and so long thereafter as oil and gas are produced in paying quantities. The lessee will be required to furnish a new and satisfactory lease bond and to discharge any indebtedness against the lease before the new lease will be issued. Two or more outstanding leases may be combined into a single lease where held in common ownership and the lands are sufficiently compact to justify their inclusion in one lease.

21. *Acreage limitation.*—All leases operated under a cooperative or unit plan for the development and operation of any area, field, or pool approved by the Secretary of the Interior are excepted in determining holdings or control under the provisions of any section of the act of February 25, 1920, as amended.

22. *Rights-of-way for pipe lines.*—Applications for rights-of-way under section 28 of the act as amended will be governed by the regulations of February 21, 1931 (circular 1237, 53 I. D. 277), insofar as applicable, appropriate changes being made in the forms prescribed to make them applicable to rights-of-way cases arising under this provision of the act for pipe lines to be constructed, maintained, and operated as comon carriers. In approving such right-of-way grant it shall be specifically stated that such pipe line shall be constructed, operated, and maintained as a common carrier and that the grantee shall accept, convey, transport, or purchase without discrimination oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amounts as the Secretary of the Interior may, after a full hearing with due notice thereof to interested parties and a proper finding of facts determine to be reasonable, and in addition that the use of such pipe line for the transportation of oil or gas shall be limited to oil and gas produced in conformity with State and Federal laws including laws prohibiting waste.

Failure on the part of the grantee to fulfill the conditions imposed by the act shall be grounds for forfeiture of the grant by the United States District Court for the district in which the property or some part thereof is located in an appropriate proceeding.

Very respectfully,

(Sgd.) FRED W. JOHNSON,
Commissioner.

I concur:
(Sgd.) W. C. MENDENHALL,
Director, Geological Survey.

Approved May 7, 1936.
(Sgd.) HAROLD L. ICKES,
Secretary.

[PUBLIC—No. 297½—74TH CONGRESS]

[S. 3311]

An Act to amend an act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437; U. S. C., title 30, secs. 185, 221, 223, 226), as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 13, 14, 17, and 28 of the act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437; U. S. C., title 30, secs. 185, 221, 223, 226), as amended, are amended to read as follows:

"SEC. 13. That the Secretary of the Interior is hereby authorized and directed, under such necessary and proper rules and regulations as he may prescribe, to grant to any applicant qualified under this Act a prospecting permit, which shall give the exclusive right, for a period not exceeding two years, to prospect for oil or gas upon not to exceed two thousand five hundred and sixty acres of land wherein such deposits belong to the United States and are not within any known geological structure of a producing oil or gas field upon condition that the permittee shall begin drilling operations within six months from the date of the permit, and shall, within one year from and after the date of permit, drill one or more wells for oil or gas to a depth of not less than five hundred feet each, unless valuable deposits of oil or gas shall be sooner discovered, and shall, within two years from date of the permit, drill for oil or gas to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered: *Provided*, That said application was filed ninety days prior to the effective date of this amendatory Act. It being the intention of Congress that there shall be no discrimination as between applicants for prospecting permits, the Secretary of the Interior is directed, in every case where one or more permits have been issued, to issue permits to all other applicants for prospecting permits on the same structure, even though one or more of the permittees has developed the said structure into a producing oil or gas field, if said application for permit was filed prior to the development of such structure into a producing oil or gas field, and said applicant has otherwise complied with the law: *Provided further*, That when such permit is issued upon any structure after discovery, the royalty to be paid upon the preferential lease provided for in section 14 hereof shall be 10 per centum in amount or value of the production and the annual payment of a rental as provided in said section 14. No prospecting permit shall be granted upon any application filed after ninety days prior to the effective date of this amendatory Act. The Secretary of the Interior may, if he shall find that the permittee has been unable with the exercise of diligence to test the land in the time granted by the permit, extend any such permit for such time, not exceeding two years, and upon such conditions as he shall prescribe: *Provided*, That all permits outstanding on the effective date of this amendatory Act, which on said date shall not be subject to cancelation for violation of the law or operating regulations and which have theretofore been extended by the Secretary of the Interior, shall be, and the same are hereby, extended until December 31, 1937, subject to the applicable conditions of such prior extensions: *Provided further*, That the Secretary of the Interior is hereby authorized to extend for an additional period of not to exceed one year any permit on which diligence has been exercised or on which drilling or prospecting has been suspended at the direction of the Secretary during the extension period hereby granted, but no extension of any permit beyond December 31, 1938, shall be granted under authority of this Act, or any other Act. Whether the lands sought in any such application and permit are surveyed or unsurveyed the applicant shall, prior to filing his application for permit, locate such lands in a reasonably compact form and according to the legal subdivisions of the public-land surveys if the land be surveyed; and in an approximately square or rectangular tract if the land be an unsurveyed tract, the length of which shall not exceed two and one-half times its width, and if he shall cause to be erected upon the land for which a permit is sought a monument not less than four feet high, at some conspicuous place thereon, and shall post a notice in writing on or near said monument, stating that an application for permit will be made within thirty days after date of posting said notice, the name of the applicant, the date of the notice, and such a general description of the land to be covered by such permit by reference to courses and distances from such monument and such other natural objects and permanent monuments as will reasonably identify the land, stating the amount thereof in acres, he shall, during the period of thirty days following such marking and posting, be entitled to a preference right over others to a permit for the land so identified. The applicant shall, within ninety days after receiving a permit, mark each of the corners of the tract described in the permit upon the ground with substantial monuments, so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the lands a notice that such permit has been granted and a description of the lands covered thereby: *Provided further*, That in the Territory of Alaska prospecting permits not more than five in number may be granted to any qualified applicant for periods not exceeding four years, actual drilling operations shall begin within two years from date of permit, and oil and gas wells shall be drilled to a depth of not less than five hundred feet, unless valuable deposits of oil or gas shall be sooner discovered, within three years from date of the permit and to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered, within four years from date of permit: *Provided further*, That in said Territory the applicant shall have a preference right over others to a permit for land identified by temporary monuments and notice posted on or near the same for six months following such marking and posting, and upon receiving a permit he shall mark the corners of the tract described in the permit upon the ground with substantial monuments within one year after receiving such permit: *Provided further*, That any person holding a permit to prospect for oil or gas which shall not be subject to cancelation for violation of the law or operating regulations or which shall have been extended under the authority of this or any other Act, in force on or after the effective date of this amendatory Act, or for which timely and acceptable application for extension shall have been filed prior to said date, shall have the right prior to the termination of such permit to exchange the same for a lease to the area described in the permit without proof of discovery, at a royalty of not less than 12½ per centum or value of the production, to be determined by the Secretary of the Interior by general rule and under such other conditions as are fixed in section 17 of this Act: *Provided further*, That no such lease shall be subject to the acreage limitations of section 27 of this Act, as amended, until one year after the discovery of valuable deposits of oil or gas thereon: *Provided further*, That any application for any prospecting permit filed after ninety days prior to the effective date of this amendatory Act shall be considered as an application for lease under section 17 hereof: *And provided further*, That upon leases so granted in lieu of existing permits or granted to applicants for permits, no rentals shall be payable for the first two lease years, unless valuable deposits of oil or gas are sooner discovered within the boundaries of such lease.

"Sec. 14. That upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: *Provided*, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee shall be in reasonably compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and be taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of $1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, and shall continue in force otherwise as prescribed in section 17 hereof for leases issued prior to the effective date of this amendatory Act. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production nor more than the royalty rate prescribed by regulation in force on January 1, 1935, for secondary leases issued under this section, and under such other conditions as are fixed for oil or gas leases issued under section 17 of this Act the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: *Provided further*, That the Secretary shall have the right to reject any or all bids.

"Sec. 17. All lands subject to disposition under this Act which are known or believed to contain oil or gas deposits, except as herein otherwise provided, may be leased by the Secretary of the Interior after the effective date of this amendatory Act, to the highest responsible qualified bidder by competitive bidding under general regulations. Such lands shall be leased in units of not exceeding six hundred and forty acres, which shall be as nearly compact in form as possible. Such leases shall be conditioned upon the payment by the lessee of such bonus as may be accepted and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production and the payment in advance of a rental to be fixed in the lease of not less than 25 cents per acre per annum, which rental except as otherwise herein provided shall not be waived, suspended, or reduced unless and until a valuable deposit of oil or gas shall have been discovered within the lands leased: *Provided*, That the rental paid for any one year shall be credited against the royalties as they accrue for that year: *Provided further*, That in the event the Secretary of the Interior shall direct or shall assent to the suspension of operations or of production of oil or gas under any such lease, any payment of acreage rental as herein provided shall likewise be suspended during such period of suspension of operations or production: *And provided further*, That in the case of leases valuable only for the production of gas the Secretary of the Interior, upon showing by the lessee that the lease cannot be successfully operated upon such rental or upon the royalty provided in the lease, may waive, suspend, or reduce such rental or reduce such royalty.

"The Secretary of the Interior, for the purpose of more properly conserving the oil or gas resources of any area, field, or pool, may require that leases hereafter issued under any section of this Act be conditioned upon an agreement by the lessee to operate, under such reasonable cooperative or unit plan for the development and operation of any such area, field, or pool as said Secretary may determine to be practicable and necessary or advisable, which plan shall adequately protect the rights of all parties in interest, including the United States: *Provided*, That all leases operated under such plan approved or prescribed by said Secretary shall be excepted in determining holdings or control under the provisions of any section of this Act.

"Leases hereafter issued under this section shall be for a period of five years and so long thereafter as oil or gas is produced in paying quantities when the lands to be leased are not within any known geological structure of a producing oil or gas field, and for a period of ten years and so long thereafter as oil or gas is produced in paying quantities when the lands to be leased are within any known geological structure of a producing oil or gas field: *Provided*, That no such lease shall be deemed to expire by reasons of suspension of prospecting, drilling, or production pursuant to any order or consent of the said Secretary: *Provided further*, That the person first making application for the lease of any lands not within any known geologic structure of a producing oil or gas field who is qualified to hold a lease under this Act, including applicants for permits whose applications were filed after ninety days prior to the effective date of this amendatory Act, shall be entitled to a preference right over others to a lease of such lands without competitive bidding at a royalty, in the case of oil, of 12½ per centum in amount or value of the production when the said production does not exceed fifty barrels per well per day for the calendar month and of not less than 12½ per centum in amount or value of the production when the said production exceeds fifty barrels per well per day for the calendar month, and, in the case of gas, at a royalty of 12½ per centum in amount or value of the production when the said production does not exceed five million cubic feet per well per day for the calendar month and, when the said production exceeds five million cubic feet per well per day for the calendar month, at a royalty of not less than 12½ per centum in amount or value of the production.

"Leases issued prior to the effective date of this amendatory Act shall continue in force and effect in accordance with the terms of such leases and the laws under which issued: *Provided*, That any such lease that has become the subject of a cooperative or unit plan of development or operation, or other plan for the conservation of the oil and gas of a single area, field, or pool, which plan has the approval of the Secretary of the Department or Departments having jurisdiction over the Government lands included in said plan as necessary or convenient in the public interest, shall continue in force beyond said period of twenty years until the termination of such plan: *And provided further*, That said Secretary or Secretaries shall report all leases so continued to Congress at the beginning of its next regular session after the date of such continuance.

"Any cooperative or unit plan of development and operation, which includes lands owned by the United States, shall contain a provision whereby authority, limited as therein provided, is vested in the Secretary of the department or departments having jurisdiction over such land to alter or modify from time to time in his discretion the rate of prospecting and development and the quantity and rate of production under said plan. The Secretary of the Interior is authorized whenever he shall deem such action necessary or in the public interest, with the consent of lessee, by order to suspend or modify the drilling or producing requirements of any oil and gas lease not subject to such a cooperative or unit plan, and no lease shall be deemed to expire by reason of the suspension of production pursuant to any such order.

"Whenever it appears to the Secretary of the Interior that wells drilled upon lands not owned by the United States are draining oil or gas from lands or deposits owned in whole or in part by the United States, the Secretary of the Interior is hereby authorized and empowered to negotiate agreements whereby the United States or the United States and its permittees, lessees, or grantees shall be compensated for such drainage, such agreements to be made with the consent of the permittees and lessees affected thereby.

"Whenever the average daily production of the oil wells on an entire leasehold or on any tract or portion thereof segregated for royalty purposes shall not exceed ten barrels per well per day, or where the cost of production of oil or gas is such as to render further production economically impracticable the Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of oil and in the interest of conservation of natural resources, is authorized to reduce the royalty on future production when in his judgment the wells cannot be successfully operated upon the royalty fixed in the lease. The provision of this paragraph shall apply to all oil and gas leases issued under this Act, including those within an approved cooperative or unit plan of development and operation.

"Any lease issued after the effective date of this amendatory Act under the provisions of this section, except those earned as a preference right as provided in section 14 hereof, shall be subject to cancelation by the Secretary of the Interior after thirty days' notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the land covered by any such lease is known to contain valuable deposits of oil or gas. Such notice in advance of cancelation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States Land Office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such leased land, then in the post office nearest such land. Leases covering lands known to contain valuable deposits of oil or gas shall be canceled only in the manner provided in section 31 of this Act.

"SEC. 28. That rights-of-way through the public lands, including the forest reserves of the United States, may be granted by the Secretary of the Interior for pipe-line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of this Act, to the extent of the ground occupied by the said pipe line and twenty-five feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon the express coindition that such pipe lines shall be constructed, operated, and maintained as common carriers and shall accept, convey, transport, or purchase without discrimination, oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amounts as the Secretary of the Interior may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine to be reasonable: *Provided*, That the Government shall in express terms reserve and shall provide in every lease of oil lands hereunder that the lessee, assignee, or beneficiary, if owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipe line, operating a lease or purchasing gas or oil under the provisions of this Act: *Provided further*, That no right-of-way shall hereafter be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section. Failure to comply with the provisions of this section or the regulations and conditions prescribed by the Secretary of the Interior shall be ground for forfeiture of the grant by the United States district court for the district in which the property, or some part thereof, is located in an appropriate proceeding."

Sec. 2. (a) That the Secretary of the Interior is authorized to issue new leases to lessees holding oil or gas leases under any of the provisions of this Act at the time this amendatory Act becomes effective, such new leases to be in lieu of the leases then held by such lessees and to be at a royalty rate of not less than 12½ per centum in amount or value of the production and upon such other terms and conditions as the Secretary of the Interior shall by general rule prescribe: *Provided*, That no limitation of acreage not provided for under the law or regulations under which any such old lease was issued shall be applicable to any such new lease.

(b) Nothing contained in this amendatory Act shall be construed to affect the validity of oil and gas prospecting permits or leases previously issued under the authority of the said Act of February 25, 1920, as amended, and in existence at the time this amendatory Act becomes effective, or impair any rights or privileges which have accrued under such permits or leases.

Sec. 3. That nothing in this amendatory Act shall be construed as affecting any lands within the borders of the naval petroleum reserves and naval oil-shale reserves or agreements concerning operations thereunder or in relation to the same, but the Secretary of the Navy is hereby authorized, with the consent of the President, to enter into agreements such as those provided for under the Act of March 4, 1931 (46 Stat. 1523), which agreements shall not, unless expressed therein, operate to extend the terms of any lease affected thereby.

Approved, August 21, 1935.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 19, 1936.

Suspending annual assessment work on mining claims. Act of April 24, 1936, Public No. 532, 74th Congress.

Registers,

U. S. Land Offices.

Sirs:

For your information, and in order that you may inform inquirers relative thereto, your attention is called to the act of April 24, 1936, Public No. 532, providing for the suspension of annual assessment work on mining claims held by location in the United States, and reading as follows:

> "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provision of section 2324 of the Revised Statutes of the United States, which requires on each mining claim located, and until a patent has been issued therefor, not less than $100 worth of labor to be performed or improvements aggregating such amount to be made each year, be, and the same is hereby, suspended as to all mining claims in the United States during the year beginning at 12 o'clock meridian July 1, 1935, and ending at 12 o'clock meridian July 1, 1936: *Provided*, That the provisions of this Act shall not apply in the case of any claimant not entitled to exemption from the payment of a Federal income tax for the taxable year 1935: *Provided further*, That every claimant of any such mining claim, in order to obtain the benefits of this Act, shall file, or cause to be filed, in the office where the location notice or certificate is recorded, on or before 12 o'clock meridian July 1, 1936, a notice of his desire to hold said mining claim under this Act, which

Circ 1388

> notice shall state that the claimant, or claimants, were entitled to exemption from the payment of a Federal income tax for the taxable year 1935: And provided further, That such suspension of assessment work shall not apply to more than six lode-mining claims held by the same person, nor to more than twelve lode-mining claims held by the same partnership, association, or corporation: And provided further, That such suspension of assessment work shall not apply to more than six placer-mining claims not to exceed one hundred and twenty acres (in all) held by the same person, nor to more than twelve placer-mining claims not to exceed two hundred and forty acres (in all) held by the same partnership, association, or corporation."

Attention is called to the fact that this Act does not apply to Alaska but applies only to claimants in the United States who are exempt from the payment of a Federal income tax for the taxable year 1935, and who file on or before 12 o'clock noon July 1, 1936, in the office where the location notice or certificate is recorded, a notice of their desire to hold the claims under the Act. The notice so filed should state that they were entitled to exemption from the payment of a Federal income tax for the year 1935.

It is to be observed that an individual who files such notice is not entitled to exemption from performing assessment work on more than six lode claims nor on more than six placer claims not to exceed 120 acres (in all) and that a partnership, association, or corporation is not entitled to such exemption on more than twelve lode claims nor on more than twelve placer claims not to exceed two hundred and forty acres (in all).

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: May 19, 1936.

(Sgd) T. A. Walters,

First Assistant Secretary.

120059

Circular No. 1393

REGULATIONS GOVERNING SMALL SALES OF TIMBER ON THE VACANT AND UNRESERVED PUBLIC LANDS IN ALASKA, FOR USE IN THE TERRITORY.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 20, 1936.

amended in part by Circ. 1503

See Circ. 1815 & 1841, too.

Register,
Anchorage, Alaska.

Registers and Receivers,
Fairbanks and Nome, Alaska.

Director of Investigations,
Washington, D. C.

Sirs:-

The following regulations governing small sales of timber on the vacant and unreserved public lands in Alaska, for use in the territory, are issued under authority of section 11 of the act of May 14, 1898 (30 Stat. 414; U. S. C., title 48, sec. 421), which provides:

> "That the Secretary of the Interior, under such rules and regulations as he may prescribe, may cause to be appraised the timber or any part thereof upon public lands in the District of Alaska, and may from time to time sell so much thereof as he may deem proper for not less than the appraised value thereof, in such quantities to each purchaser as he shall prescribe, to be used in the District of Alaska, but not for export therefrom.* And such sales shall at all times be limited to actual necessities for consumption in the District from year to year, and payments for such timber shall be made to the receiver of public moneys of the local land office of the land district in which said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe, and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury. The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber found

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*The act of April 12, 1926 (44 Stat. 242), authorizes the exportation, under certain conditions, of timber lawfully cut, in Alaska. Regulations governing the sale of timber for export are contained in Circulars Nos. 491 and 1092.

upon the public lands in said District of Alaska by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, as may actually be needed by such persons for such purposes."

1. Timber which may be sold. The only timber which may be sold under these regulations is timber on the vacant public lands in Alaska, not reserved for national forest or other purposes. Such sales may be made to individuals, associations and corporations. Sales will be made only in such quantities as are actually needed for use in the Territory within two years from the date of the filing of the application.

2. Application. Persons wishing to purchase timber under these regulations must make application therefor, accompanied by a deposit, as hereinafter required, to the United States land office for the district in which the lands to be cut over are situated.

The application must be made on Form 4-023 and must contain the following information:

(a) The name, address, and business or occupation of the applicant, or such information for each applicant, if more than one.

(b) A description of the land from which the cutting is to be done, by legal subdivision, section, township and range numbers, if surveyed, or by notes and bounds, with reference to some permanent natural landmark, if unsurveyed. The cutting area must be restricted to the smallest area possible necessary to produce the kind and quantity of timber applied for. If an exclusive right to cut the timber is desired, the applicant must request such right and must show that the timber is not needed by persons entitled to the free use of timber under section 11 of the act of May 14, 1898, if such is the case.

(c) The amount and kind of the timber applied for.

(d) The proposed use of the timber and the place in Alaska at which it is to be used within two years from the date of the filing of the application.

(e) The name and address of the person who is to do the cutting.

(f) The amount of money transmitted with the application and the form of remittance.

(g) Facts as to the status of the land, known to the applicant.

(h) Facts as to any other application to purchase timber under these regulations, filed by the applicant within the preceding twelve months.

The application must be witnessed by the signatures of two persons.

3. Minimum prices. The minimum rates at which any timber will be appraised or sold are as follows: For Sitka spruce, hemlock and red cedar, $1. per 1,000 feet b. m.; for yellow cedar, $2.50 per 1,000 feet b. m.; for piling 50 feet or less in length up to a top diameter of 7 inches, one-half cent per linear foot; for piling between 50 and 80 feet in length up to a top diameter of 8 inches, three-fourths of a cent per linear foot; for piling over 80 feet in length, up to a top diameter of 8 inches, 1 cent per linear foot; for shingle bolts and cooperage stock, 50 cents per cord; and for wood suitable only for fuel or mine lagging, 25 cents per cord.

4. Deposit. Each application must be accompanied by a deposit in the sum of $50, in cash, postoffice money order or certified check, where the stumpage value of the timber applied for, at the minimum rate, equals or exceeds that amount, or in a sum representing the full stumpage value, at the minimum rate, where such value is less than $50. If afterwards a permit is issued, the deposit will be applied to the purchase price of the timber. If no permit is issued under the application and no timber is cut thereunder, the deposit will be returned.

5. Action on application. Upon receipt of the application, the register will give it a serial number and will note a reference to it on his tract book. If it is received without the required deposit, he will suspend action and call on the applicant to make the payment.

The register will acknowledge receipt of the application, advising the applicant of the date on which it was filed, and will furnish the applicant a receipt for the money paid. He will also advise the applicant whether the land is covered by any other application, or by any entry or selection, or whether it is reserved for national forest or other purposes, as shown by his records.

Thereafter, the register will promptly forward the application for appropriate action to the officer of this Department in charge of the issuance of timber cutting permits in Alaska. He will also furnish such officer a copy of his statement to the applicant.

6. Timber cutting. The applicant may cut the timber applied for, under the following conditions, if the land is subject to timber cutting hereunder:

(a) After he has filed his application to purchase in the district land office, with the required deposit.

(b) After he has posted notice of his application on Form 4-023c in a conspicuous place on the land.

(c) After he has received from the register a statement indicating that the records of the district land office do not show any objection to the cutting.

Land which is occupied or improved by an Indian or Eskimo, or which is included in a homestead settlement claim, or in a mining or other claim initiated under the public land laws, is not subject to timber cutting hereunder, notwithstanding that the facts as to such claim may not be shown by the records of the district land office.

An applicant will be allowed 12 months from the date of the filing of his application in the district land office within which to cut the timber applied for. The right to cut such timber will expire at the end of such time. No timber may be removed from the land before a permit authorizing its removal has issued or before the applicant has made payment in full for all timber cut, as hereinafter provided.

7. Exclusive right to cut timber. An application to purchase timber will give the applicant an exclusive right to take it as against persons entitled to the free use of timber in Alaska under Section 11 of the act of May 14, 1898, if such exclusive right is requested and granted, but not otherwise. Where such request is made, the applicant must show that the timber applied for is not needed by persons entitled to such free use. Further, in order to claim such exclusive right, the applicant to purchase timber will be required to show in his posted notice on Form 4-023c that such right has been granted, and, if the land is unsurveyed, the boundaries thereof must be blazed or otherwise marked on the ground, sufficiently to identify them.

8. Subsequent claim. When a homestead, mining or other claim is initiated subsequent to the filing in the district land office of an application to purchase timber under these regulations, and the posting of notice on the land, such subsequent claimant must take the claim subject to the right of the timber applicant to cut and remove the timber applied for.

9. Issuance of permit. A permit to cut and remove the timber applied for will be issued by the officer in charge without awaiting a field examination and appraisal of the timber, in the absence of objection appearing. If any objection is known to such officer, he will suspend the application for permit until a field examination has been made.

10. Field examination and appraisal of timber. As soon as practicable after the filing of the application, or at such time or times as the officer in charge may deem most advantageous, a field examination or field examinations will be made and the timber will be appraised. The agent who makes the appraisal will advise both the applicant and the register thereof.

11. Removal of timber. Timber cut in accordance with these regulations under an application on which a permit has issued may be removed

from the land, provided the applicant first transmits to the proper district land office, by registered mail, or furnishes the special agent who appraises the timber, his signed statement showing the serial number of his application, the amount and kind of the timber cut, the lands from which it was cut and the value of the timber at the appraised price, and provided further, the applicant first makes payment for all timber cut, if any, over and above the amount for which the payment has been made. If the timber has not been appraised, it may be removed, provided the applicant first transmits such statement to the register, by registered mail, with payment for such excess timber, if any, at the minimum stumpage price.

12. Payment. Where payment is made to a special agent, he will give the applicant a memorandum receipt therefor and a further receipt will later be issued by the register or receiver. If timber is removed after the issuance of a permit but in advance of a field examination and it is subsequently found that more timber has been out and removed than has been paid for at the minimum price, the applicant will be required to pay for such excess.

The register will advise the Division of Investigations as to all moneys received in connection with applications to purchase timber, giving the serial numbers of the cases and other necessary information. The moneys will be held as "unearned" pending receipt of a report from such division. The Division of Investigations will account to the register for all moneys received by special agents and will advise the register when moneys on deposit should be covered into the Treasury, or returned.

13. Final action. After necessary action by the register and by the Division of Investigations, the application and related papers will be forwarded through the office of the Ex Officio Commissioner for this Department in Alaska, to the General Land Office.

14. Timber on School Sections and on Withdrawn Lands. These regulations are not applicable to timber upon the Secs. 16, 33 and 36, which were reserved to the territory for educational uses by the act of March 4, 1915 (38 Stat. 1214). The regulations are also inapplicable to timber upon withdrawn areas, unless the order of withdrawal permits.

The sections 16, 33 and 36 described in said act of March 4, 1915, to which the territorial rights have not attached because of their known mineral character at the date of acceptance of the survey thereof by the Commissioner of the General Land Office, are subject to the provisions of the act of May 14, 1898 (30 Stat. 414), for the sale of timber thereon. Where such sale is made the proceeds received shall be deposited in the Treasury under the receipt title "6003 Proceeds of Mineral or Reserved Lands, Tanana Valley, Alaska."

15. Rules to be observed in cutting timber. (a) Immature trees or trees other than of the size, kind and maturity necessary to furnish

the class of timber desired are not to be cut and cordwood is not to be cut from trees suitable for saw logs or from spruce trees of a size exceeding 10 inches in diameter at the stump.

(b) All stumps are to be cut as close to the ground as conditions will permit and each tree is to be utilized to a diameter at the top sufficiently small to prevent unnecessary waste.

(c) Tops, lops, and necessarily cut underbrush are to be disposed of in such manner as will insure the least danger of the spread of forest fires. Every possible precaution to prevent such fires is to be taken and assistance in suppressing such fires when discovered is to be rendered. If applicant fails properly to dispose of tops, lops, and underbrush, he will be liable for any expense necessarily incurred by this Department in properly disposing of the debris.

16. Revocation of permit. Any permit issued under these regulations may be revoked for failure of the applicant to comply with the conditions in the permit or with these regulations. If cutting is being done in violation of the terms of the sale, any special agent of the Department who is authorized to act in timber cutting cases may stop the cutting, revoke the permit and collect such additional payment as may be due the Government for the timber.

17. Trespass. The cutting of timber from the vacant and unreserved public lands in Alaska, other than in accordance with the terms of the law and the regulations of this Department, will render the persons responsible liable to the United States in a civil action for trespass and such persons may be prosecuted criminally under section 49 of the Penal Code approved March 4, 1909 (35 Stat. 1098; U. S. C., title 18, sec. 103).

18. Forms. Copies of any of the forms referred to herein may be obtained, on request, from any district land office in Alaska.

19. Instructions superseded. The instructions in Circular No. 491, approved February 24, 1928, are hereby superseded, insofar as such instructions relate to small sales of timber in Alaska.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: June 20, 1936

(Sgd) T. A. Walters,

First Assistant Secretary.

Note. Regulations governing the free use of timber on the vacant and unreserved public lands in Alaska are contained in Circular No. 1394, approved June 20, 1936.

120632

Circular No. 1396

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

"C" AJM 1642640 July 6, 1936.

: Absences from homestead lands
: because of economic conditions.
: Act of April 20, 1936 (Public
: No. 527).

Registers,

United States Land Offices.

Sirs:

The act of April 20, 1936 (Public No. 527 - 74th Congress), entitled "An Act granting a leave of absence to settlers of homestead lands during the year 1936", reads as follows:

> "That any homestead settler or entryman who, during the calendar year 1936 should find it necessary, because of economic conditions, to leave his homestead to seek employment in order to obtain the necessaries of life for himself or family or to provide for the education of his children, may, upon filing with the register of the district his affidavit, supported by corroborating affidavits of two disinterested persons, showing the necessity of such absence, be excused from compliance with the requirements of the homestead laws as to residence, cultivation, improvements, expenditures, or payment of purchase money, as the case may be, during all or any part of the calendar year 1936, and said entries shall not be open to contest or protest because of failure to comply with such requirements during such absence; except that the time of such absence shall not be deducted from the actual residence required by law, but a period equal to such absence shall be added to the statutory life of the entry: *Provided*, That any entryman holding an unperfected entry on ceded Indian lands may be excused from the requirements of residence upon the conditions provided herein, but shall not be entitled to extension of time for the payment of any installment of the

purchase price of the land except upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder.

"Sec. 2. Any homestead settler or entryman, including any entryman on ceded Indian lands, who is unable to make the payments due on the purchase price of his land on account of economic conditions, shall be excused from making any such payment during the calendar year 1936 upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder."

Leaves of absences for all or part of the year mentioned by this act may be granted thereunder to any homestead settler or entryman who has established actual residence upon the lands and who thereafter found it necessary because of economic conditions to leave his homestead to seek employment in order to obtain food and other necessaries of life for himself or family or to provide for the education of his children.

The application for such leave of absence must be filed in the proper district land office and give the name and present address of the applicant and be sworn to by him and corroborated by the affidavits of at least two witnesses in the land district or county within which the lands claimed under the homestead laws are located, before an officer authorized to administer oaths and using a seal. It must describe the land by legal subdivisions, section, township and range numbers, give the serial number of the entry and name of land office and show the date when residence was established thereon and how the same was maintained thereafter by giving the dates of the beginning and ending of all residence periods and of all absence periods, and the character of the improvements and cultivation performed by the applicant. It must set forth fully all the facts on which the claimant bases his right to a leave of absence, what effort was made to raise crops, giving the dates of the planting and the kind of crops planted, the purpose of his request for leave, and the period for which the leave is desired. The address of the claimant during his absence should also be supplied if possible.

The provision for leave of absence applies to entrymen only if they have established residence upon their claims. It also applies to settlers who have not made entries. If the latter file applications for leave of absence hereunder, you will assign them current serial numbers. If the settler hastheretofore filed notice of his absence under the act of July 3, 1916 (39 Stat. 341), the application under this act will be given the serial number already assigned such notice of absence.

The period during which a homesteader is absent from his claim, pursuant to a leave duly granted under this act, can not be counted as a part of the actual residence on the land required by law, but an equivalent period may be added to the statutory life of the entry.

If the application for relief under this act is allowed, it will operate as a stay during the period for which the leave is granted against contest based upon the charge that the entryman has failed to comply with the law in the matter of residence, cultivation, improvements, expenditures, or payments of purchase price, prior to the filing of the application for leave of absence, in the absence of fraud in procuring the same.

If the showing made is satisfactory, you will promptly forward the application to this office by special letter with notation of your allowance thereof and advise the applicant of your allowance of this application by ordinary mail. If it is not satisfactory, you will reject the application, subject to the usual right of appeal, and all appeals will be promptly forwarded to this office by special letters.

Application for extension of time to make payment of any installment of the purchase price on homestead entries on ceded Indian lands and other lands where payments are required.

Homestead settlers and entrymen on lands in connection with which a purchase price is payable, including ceded Indian reservation lands, desiring relief under Section 2 of this act, are not entitled to an extension of time for the payment of any installment of the purchase price of the land, except upon proof that due to economic conditions they are unable to make the payment due, and upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date such payment became due to and inclusive of the expiration of the period of relief granted.

An extension may be granted either to the 1936 anniversary of the date of entry or to December 31, 1936, at the election of the claimant.

Proof as to inability to pay the amount due on account of economic conditions must be made by affidavit, duly corroborated, or by other convincing evidence. Such proof must be submitted to the proper district land office, which in turn will forward the same with recommendations to the Commissioner of the General Land Office for his consideration. The interest payment should be held by you as "unearned money" pending such consideration. If the proof is found sufficient an extension will be granted and you will be instructed to advise the claimant and to apply the money to the credit of the proper fund.

Where interest at the rate of 5 per centum, or other rate, has heretofore been paid and an extension of time for payment granted, the interest will not be recomputed at 4 per centum under the act of April 20, 1936.

Where extensions of time for payment are desired beyond December 31, 1936, and where they may be granted under existing laws upon the payment of interest in advance at the rate of five per centum per annum or other rate, interest will be computed under such laws from December 31, 1936, to the expiration of the period of the extension.

Very respectfully,

(Sgd) Fred W. Johnson
Commissioner.

Approved: July 6, 1936.

(Sgd) T. A. Walters

First Assistant Secretary.

121244

CIRCULAR NO. 1398
REGULATIONS GOVERNING THE FILING OF APPLICATIONS FOR EXCHANGES OF STATE LANDS UNDER SECTION 8 OF THE TAYLOR GRAZING ACT OF JUNE 28, 1934 (48 STAT. 1269), AS AMENDED BY THE ACT OF JUNE 26, 1936, PUBLIC NO. 827.

Part 147, 43 CFR

Obsolete - See Circ. 1845

See also Circ. 1474

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 22, 1936.

Registers,
U. S. Land Offices,

Sirs:

Subsections (c) and (d) of Section 8 of the Taylor Grazing Act approved June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (Public No. 827), read as follows:

> "(c) Upon application of any State to exchange lands within or without the boundaries of a grazing district the Secretary of the Interior shall, and is hereby, directed to proceed with such exchange at the earliest practicable date and to cooperate fully with the State to that end, but no State shall be permitted to select lieu lands in another State. The Secretary of the Interior shall accept on behalf of the United States title to any State-owned lands within or without the boundaries of a grazing district, and in exchange therefor issue patent to surveyed grazing district land not otherwise reserved or appropriated or unappropriated and unreserved surveyed public land; and in making such exchange the Secretary is authorized to patent to such State, land either of equal value or of equal acreage: Provided, That no State shall select public lands in a grazing district in furtherance of any exchange unless the lands offered by the State in such exchange lie within such grazing district and the selected lands lie in a reasonably compact body which is so located as not to interfere with the administration or value of the remaining land in such district for grazing purposes as set forth in this Act.

"When an exchange is based on lands of equal acreage and the selected lands are mineral in character, the patent thereto shall contain a reservation of all minerals to the United States; and in making exchanges of equal acreage the Secretary of the Interior is authorized to accept title to offered lands which are mineral in character, with a mineral reservation to the State.

"For the purpose of effecting exchanges based on lands of equal acreage the identification and area of unsurveyed school sections may be determined by protraction or otherwise. The selection by the State of lands in lieu of any such protracted school sections shall be a waiver of all of its right to such sections.

"(d) Before any such exchange under this section shall be effected, notice of the contemplated exchange, describing the lands involved, shall be published by the Secretary of the Interior once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in the same manner in some like newspaper published in any county in which may be situated any lands to be given in such exchange; lands conveyed to the United States under this Act shall, upon acceptance of title, become public lands, and if located within the exterior boundaries of a grazing district they shall become a part of the district within the boundaries of which they are located: Provided, That either party to an exchange based upon equal value under this section may make reservations of minerals, easements, or rights of use. Where reservations are made in lands conveyed either to or by the United States the right to enjoy them shall be subject to such reasonable conditions respecting ingress and egress and the use of the surface of the land as may be deemed necessary. Where mineral reservations are made by the grantor in lands conveyed by the United States, it shall be so stipulated in the patent, and any person who prospects for or acquires the right to mine and remove the reserved mineral deposits may enter and occupy so much of the surface as may be required for all purposes incident to the prospecting for, mining and removal of the minerals therefrom, and may mine and remove such minerals, upon payment to the owner of the surface for damages caused to the land and improvements thereon. No fee shall be charged for any exchange of land made under this Act except one-half of the cost of publishing notice of a proposed exchange as herein provided."

When base & selected lands are in different Graz. Dists
send applic to G.L.O. special. - See memo of 11/8/44

121244

1. Application for Exchange. Section 8 of the act, as amended, authorizes exchanges of lands between the United States and a State, upon the application of a State, and provides for the issuance of patent for the selected lands upon acceptance of title to the lands conveyed to the United States in exchange therefor. Lands offered in exchange by a State may be lands owned by the State within or without the boundary of a grazing district, and the selected lands may be an equal value or an equal area of surveyed grazing district lands not otherwise appropriated or reserved, or unappropriated and unreserved surveyed public lands of the United States, within the same State. If, however, the selected lands are within a grazing district, the lands offered by the State in exchange must be within the same grazing district and such selected lands must lie in a reasonably compact body so as not to interfere with the administration or value of the remaining lands in the district for grazing purposes.

When an exchange is based on equal values, the values of both offered and selected lands are to be determined by the Secretary of the Interior, consideration being given to any reservations of minerals or easements which may be made by the State or the United States.

When mineral lands are selected in an exchange based upon equal acreage, the patent will contain a reservation of all minerals to the United States, and in any exchanges based upon equal acreage, the State may offer mineral lands owned by the State, with a mineral reservation to the State.

Unsurveyed school sections within or without the boundary of a grazing district may be offered by the State in an exchange based upon equal areas, but no mineral reservations to the State may be made in such unsurveyed sections, the identification of which will be determined by protraction or otherwise, the State by such selections waiving all rights to the unsurveyed sections.

School sections, surveyed or unsurveyed, included within national forests, national parks and monuments, Indian or other reservations or withdrawals, may not be offered as a basis for exchange under said section 8 of the Taylor Grazing Act as amended.

Payment of fees will not be required in the case of any exchange but the State will be required to pay one-half of the cost of the publishing notice of a proposed exchange.

A State desiring to exchange lands under the provisions of this act should file application, in triplicate, in the district land office having jurisdiction over the selected lands, or in the General Land Office when there is no United States district land office within the State. Such application should describe the lands offered to the Government as well as those selected in exchange, by legal subdivisions of the public land surveys, or by entire sections, and nothing less than a legal subdivision may be surrendered or selected. The application for exchange should identify the grazing district in which the offered or selected lands are situated, if in a grazing district, should state whether the proposed exchange is to be based upon equal values or equal areas, and if based upon equal values should state whether or not any reservations of minerals, easements, or other rights of use in or to the offered lands are desired, and what use thereof is contemplated. Also when the application is based upon equal values it should show the reservations or easements which are acceptable to the State and which are to be made by the United States affecting the selected lands. Each application for an exchange must be accompanied by the following certificate and affidavit:

A. A certificate by the selecting agent showing that the selection is made under and pursuant to the laws of the State; that the lands selected and the lands relinquished are approximately of equal value (unless the exchange is based on equal areas); that the State is the owner of the lands offered in exchange (unless the offered lands are unsurveyed); that the offered lands are not the basis of another selection or exchange, and that the selected lands are unappropriated and are not occupied, claimed, improved, or cultivated by any person adversely to the State.

B. A corroborated affidavit relative to springs and water holes on the selected lands in accordance with existing regulations pertaining thereto.

2. Action by the Register. If the application for exchange appears regular and in conformity with the law and these regulations, the Register will assign the current serial number thereto, and, after making appropriate notations upon his records, will transmit the original and triplicate copies of the application to the General Land Office, together with a report as to any conflicts of record, and, if the selected lands are within a grazing district, will transmit the duplicate copy of the application to the Director of Grazing, who will report to the Commissioner of the General Land Office as to whether in his opinion the selected lands are so located as not to interfere with the administration or value of the remaining lands in the district for grazing purposes within the meaning of the act.

An application for exchange will be noted "suspended" by the Register and unless disallowed, the lands applied for in exchange will be segregated upon the records of the district land office and General Land Office, and will not be subject to other appropriation, application, selection or filing.

Circular No. 1384, approved April 15, 1936, is hereby revoked in so far as it pertains to exchanges by a State under section 8 of the Grazing act as amended.

3. Action of the General Land Office. When an exchange is based upon equal values, upon receipt of a favorable report from the Director of Grazing (where the selected lands are within a grazing district), all else being regular, the Commissioner of the General Land Office will transmit the triplicate copy of the application to the Director of the Division of Investigations with a request that a field investigation be made for the purpose of determining the values of the offered and selected lands; whether the selected lands are occupied, improved, cultivated or claimed by any one adversely to the State; whether the selected lands contain minerals, timber, springs, water holes, hot or medicinal springs, or any special features which should be considered in acting on the application; and whether the reservation which the State desires to make in the offered lands, if any, together with the contemplated use of such reservation, will in any way affect adversely the administration of the grazing district, if the offered lands are within a grazing district. The field examination should be made as soon as possible, and report and special recommendation should be submitted to the General Land Office.

When an exchange is based upon equal areas, if a field examination is found necessary to determine the character of the selected lands as to mineral or springs or water holes, the Director of the Division of Investigations will be requested to have a field investigation made for either or both of such purposes.

4. Additional Evidence Required. When the field investigation report is received and an exchange of equal values has been established, or, in the case of an equal area exchange, where no field investigation is found necessary, the Commissioner of the General Land Office, unless he has reason to do otherwise, will, with the approval of the Secretary of the Interior, issue notice for publication of the contemplated exchange, and will require the State, through the register of the district land office, to submit proof of publication of notice, a duly recorded deed of conveyance of the offered lands (unless such offered lands are unsurveyed), a certificate of the proper State officer showing that the offered lands have not been sold or otherwise encumbered by the State, and a certificate by the recorder of deeds or official custodian of the records of transfers of real estate, in the proper county, or by an abstracter or abstract company approved by the General Land Office, that no instrument purporting to convey or in any way encumber title to the offered land is of record or on file in his office. Where reservations of any kind are made in the offered lands, complete description thereof should be furnished. If, however, the offered lands were ever held in private ownership and were acquired by the State from such source, it will be necessary for the State to furnish an abstract of title showing that at the time the deed of conveyance to the United States was recorded the title to the lands covered by such deed was in the State making the conveyance, a certificate that the lands so conveyed were free from judgments or mortgages, liens, pending suits, tax assessments or other encumbrances, except such reservations as may be made in the lands conveyed, and a certificate by the proper official of the county in which the lands conveyed are situated showing that all taxes levied

or assessed against the lands conveyed to the United States, or that could operate thereon as a lien, have been fully paid or that no taxes have been levied, or whether there is a tax due on such lands that could operate as a lien thereon but which tax is not yet payable, and that there are no unredeemed tax sales and no tax deeds outstanding against such lands conveyed to the United States.

5. Deed of Conveyance. The deed of conveyance to the United States must be executed, acknowledged, and duly recorded in accordance with the laws of the State making the exchange, and must be accompanied by a certificate of the proper State officer showing that the officer executing the conveyance was authorized to do so under the State law. The deed should recite that it is made "for and in consideration of the exchange of certain lands, as authorized by section 8 of the act of June 28, 1934 (48 Stat. 1269), as amended."

6. Abstract of Title. The abstract of title when required must show that the title memoranda contained therein are a full, true and complete abstract of all matters of record or on file in the office of the recorder of deeds and in the offices of the clerks of courts of record of that jurisdiction, including all conveyances, mortgates, pending suits, judgments, liens, lis pendens or other encumbrances or instruments which are required by law to be filed with the recording officer and which appear in the records of the offices of the clerks of courts of record affecting in any manner whatsoever the title to the land to be conveyed to the United States. The abstract of title may be prepared and certified by the recorder of deeds or other proper officer under his official seal, or it may be prepared and authenticated by an abstracter or by an abstract company, approved by the General Land Office, in accordance with section 42 of the mining regulations of April 11, 1922 (49 L. D. 15, 69).

7. Taxes. In case the land conveyed to the United States has been held in private ownership and taxes have been assessed or levied thereon, and such taxes are not due and payable until some future date, the State, in addition to the certificate above required relative to taxes and tax assessments, may furnish a bond with qualified corporate surety for the sum of twice the amount of taxes paid on the land for the previous year in order to indemnify the United States against loss for the tax as assessed or levied but not yet due and payable. In lieu of the bond the State may submit a sum similar to that required in the bond, and if and when proper evidence is furnished showing the taxes on the land conveyed have been paid in full, the said sum will be returned to the State.

8. Publication of Notice. The publication notice must give the name of the State making application, the serial number and date of the application, act under which application is filed, describe both the offered and selected lands (except that where the offered lands are

unsurveyed no notice of such lands will be required) in terms of legal subdivisions of the public land surveys, and state that the purpose of the notice is to allow all persons claiming the selected lands or having bona fide objections to such exchange an opportunity to file their protests or other objections in the district land office, or in the General Land Office, together with evidence that a copy of such protest or objection has been served upon the State. Such notice must be published once a week for four consecutive weeks in some designated newspaper of general circulation in the county or counties in which may be situated the lands offered to the United States, and in the same manner in some like newspaper published in any county in which may be situated any lands to be selected in exchange. In the event of the designation of a daily newspaper, the publication should be made in the Wednesday issue thereof. A similar notice will be posted in the district land office during the required period of publication. Such notice for publication will be sent by the General Land Office to the register for forwarding by him to the applicant with instructions for publication in the newspaper or newspapers designated, but where there is no United States land office in the State applying for the exchange, the notice will be sent direct to the State with instructions for publication in the newspaper designated. Proof of publication of notice shall consist of an affidavit by the publisher, or foreman, or other proper employee of the newspaper, showing the dates of publication, and attaching thereto a copy of the notice as published. The register shall transmit such evidence of publication to this office with his report as to whether or not protests or contests have been filed against the proposed exchange, and shall certify as to the posting of notice in his office.

The State will be responsible for payment of one half the cost of publication, and the publisher should bill the Commissioner of the General Land Office for the other half in accordance with instructions contained in the advertising order accompanying the notice for publication.

9. Further Action by General Land Office. The publication of notice, conveyance, abstract of title and other evidence required of the State will, upon receipt in the General Land Office, be examined, and if found regular and in conformity with law, and there are no objections, title will be accepted to the offered land and patent will issue for the land selected in exchange.

Should the report from the Director of the Division of Investigations, upon field investigation, disclose inequalities of value, the Commissioner of the General Land Office will advise the State and afford opportunity for adjustment so as to bring the exchange within the provisions of the law.

In the case of an equal area exchange should the report of the Division of Investigations show that the selected lands are mineral in character, the State will be required to file consent to the reservation of all minerals therein to the United States. In making exchanges based upon equal areas, when the offered lands are mineral in character and the State holds title thereto, the State may, if desired, reserve the mineral rights in such offered lands in accordance with the provisions of paragraph 2 of subsection (c) of section 8 of the act.

Notices of additional requirements, rejection or other adverse action will be given, and the right of appeal, review, or rehearing recognized in the manner now prescribed by the Rules of Practice. Protests against exchanges should be filed in the district land office, from where they will be transmitted to the General Land Office for consideration and disposal.

Should the application for exchange be finally rejected or the selection canceled for any reason, any abstract of title filed will be returned to the State, and the State will be advised of its right to apply for a quitclaim deed under existing law for the land conveyed to the United States.

10. State School Lands. It is provided in section 1 of the act that

> "Nothing in this Act shall be construed in any way to diminish, restrict, or impair any right which has been heretofore or may be hereafter initiated under existing law validly affecting the public lands, and which is maintained pursuant to such law except as otherwise expressly provided in this Act, nor to affect any land heretofore or hereafter surveyed which, except for the provisions of this Act, would be a part of any grant to any State, nor as limiting or restricting the power or authority of any State as to matters within its jurisdiction."

The words "Nothing in this Act shall be construed in any way * * * to affect any land heretofore or hereafter surveyed which, except for the provisions of this Act, would be a part of any grant to any State" were obviously intended to preserve school sections, both surveyed and unsurveyed, included within the boundaries of a grazing district established under the provisions of the Taylor Grazing Act, in exactly the same status for the purpose of any grant to any State as the lands would have had had the Taylor Grazing Act not been passed and had the lands not been included in the grazing district.

A grazing district is not a reservation within the meaning of the act of February 28, 1891 (26 Stat. 796), and therefore school sections, surveyed or unsurveyed, within a grazing district are not for that reason only valid base for indemnity school land selections under said act of 1891. The inclusion of unsurveyed school sections within a grazing district will not prevent the title to such lands from vesting in the State upon the acceptance of the plat of survey thereof by the Commissioner of the General Land Office.

Granted school sections owned by a State within or without the boundaries of a grazing district may be assigned by the State as a basis for an equal value, or equal area exchange, and unsurveyed school sections within or without the boundaries of a grazing district may be assigned by the State as a basis for an equal area exchange, as provided in subsection (c) of section 8 of the Taylor Grazing Act, as amended.

This circular supersedes Circular No. 1346, in so far as State exchanges are concerned.

State applications for exchange pending at the date of said act of June 26, 1936, will be governed by the provisions of the act of June 28, 1934, as amended by the act of 1936, and these regulations.

Very respectfully,

(Sgd) Fred W. Johnson,
Commissioner.

Approved: July 22, 1936,

(Sgd) T. A. Walters,

First Assistant Secretary.

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